



भारत का राजपत्र

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सं. 9] नई दिल्ली, फरवरी 26—मार्च 4, 2017, शनिवार/फाल्गुन 7—फाल्गुन 13, 1938

No. 9] NEW DELHI, FEBRUARY 26—MARCH 4, 2017, SATURDAY/PHALGUNA 7—PHALGUNA 13, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 20 फरवरी, 2017

का.आ. 483.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालय में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के फलस्वरूप इस कार्यालयों को एतद्वारा अधिसूचित करती है:-

1. भारत तिब्बत सीमा पुलिस बल

- उप महानिरीक्षक, क्षेत्रीय मुख्यालय (डिब्रूगढ), भा.ति.सी. पुलिस बल मोहनबाड़ी, जिला-डिब्रूगढ (असम) – 786012
- उप महानिरीक्षक, आर.टी. सी. करैरा, भा.ति.सी. पुलिस बल जिला-शिवपुरी (मध्य प्रदेश) – 473662
- उप महानिरीक्षक, माउन्टेन ड्राइविंग स्कूल, अल्मोड़ा भा.ति.सी. पुलिस बल बिमोला कैम्प, पत्रालय-कोसी, जिला - अल्मोड़ा, उत्तराखण्ड – 243643

4. उप महानिरीक्षक, सिग्नल ट्रेनिंग स्कूल, शिवपुरी भा.ति.सी. पुलिस बल, पत्रालय/जिला-शिवपुरी (मध्य प्रदेश) - 473551
5. उप महानिरीक्षक, सी.टी.सी. अलवर, भा.ति.सी. पुलिस बल, गांव-बेरावास, पत्रालय-सहडोली, जिला-अलवर राजस्थान-131028
6. महानिरीक्षक (चिकित्सा), रेफरल चिकित्सालय, भा.ति.सी. पुलिस बल, पत्रालय-सूरजपुर, जिला-गौतमबुद्ध नगर, उत्तर प्रदेश-201306
7. सेनानी, 27वीं वाहिनी, भा.ति.सी. पुलिस बल, पत्रालय-नूरानाद सैनेटोरियम, नूरानाद, जिला-अलापुङ्गा (केरल)-690671
8. सेनानी, 50वीं वाहिनी, भा.ति.सी. पुलिस बल, पत्रालय-सैक्टर 26, जिला-पंचकुला, हरियाणा-134116
9. सेनानी, 54वीं वाहिनी, भा.ति.सी. पुलिस बल, पत्रालय-हापोली (जीरो) जिला-सुबान्सिरि, अरुणाचल प्रदेश -791120

2. सीमा सुरक्षा बल पुलिस

1. सेक्टर मुख्यालय, सीमा सुरक्षा बल, रायगंज, परिसर करनाजोड़ा, पोस्ट-करनाजोड़ा, जिला-उत्तर दीनाजपुर (पश्चिम बंगाल) पिन-733130
2. 183वीं वाहिनी सीमा सुरक्षा बल, स्थान-पतिराम, पोस्ट-अन्नाई, जिला-दक्षिण दीनाजपुर (पश्चिम बंगाल) पिन-733158

[सं. 12017/01/2012-हिन्दी]

सहेली घोष रॉय, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 20th February, 2017

S.O. 483.—In pursuance of sub rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended in 1987) the Central Government hereby notifies the following office of the Ministry of Home Affairs, wherein the percentage of the staff, having working knowledge of Hindi has gone above 80% .

1. Indo-Tibetan Border Police

1. Dy. Inspector General, Regional Hqrs (Dibrugarh), ITBP Mohanbari, Distt-Dibrugarh (Assam) – 786012
2. Dy. Inspector General, RTC Karera, ITBP, Distt-Shivpuri (M.P.) – 473662
3. Dy. Inspector General, Mountian Driving School, Almora ITBP Bimola Camp, PO-Kosi, Distt-Almora, Uttarkhand – 243643
4. Dy. Inspector General, Signal Training School, Shivpuri ITBP, PO/Distt-Shivpuri (M.P.) – 473551
5. Dy. Inspector General, CTC Alwar, ITBP, Vill-Berawas PO-Sahdoli, Distt-Alwar, Rajasthan – 131028
6. The Inspector General (Medical), ITBP Referral Hospital, ITBP PO-Surajpur, Distt-Gautam Budh Nagar, Uttar Pradesh – 201306
7. The Commandant, 27th Battalion, ITBP, PO-Nooranand, Sanatorium Nooranand, Distt-Alappuzha, Kerala – 690671
8. The Commandant, 50th Battalion, ITBP, PO Sector – 26 Distt-Panchkulla, Haryana – 134116
9. The Commandant, 54th Battalion, ITBP, PO – Hapoli (Zero) Distt – Subhansiri, Arunachal Pradesh – 791120

2. Border Security Force Police

1. Sector Hqrs., BSF Raiganj, Complex Karnajora, PO-Karnajora Distt-North Dinajapur, West Bengal, Pin-733130
2. 183 Battalion, BSF, Place – Patiram, PO – Annai, Distt-South Dinajpur West Bengal – 733158

[No. 12017/01/2012-Hindi]

SAHELI GHOSH ROY, Jt. Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 16 फरवरी, 2017

का.आ. 484.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, बैंक आफ बड़ौदा के महाप्रबंधक श्री नीलम दामोदरन (जन्म तिथि 24.11.1959) को पदभार ग्रहण करने की तारीख से 30.11.2019 तक अर्थात् उनकी अधिवर्धिता की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, बैंक आफ इंडिया में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(1)/2016-बीओ-I]

ज्ञानोत्तोष राय, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 16th February, 2017

S.O. 484.— In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri Neelam Damodharan (DOB: 24.11.1959), GM, Bank of Baroda as Executive Director in Bank of India for a period upto 30.11.2019 ie. the date of his superannuation w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(1)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 485.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, इण्डियन ओवरसीज बैंक के महाप्रबंधक श्री के. स्वामीनाथन (जन्म तिथि 30.07.1962) को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इण्डियन ओवरसीज बैंक में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(2)/2016-बीओ-I]

ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 485.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri K. Swaminathan (DOB: 30.07.1962), GM, Indian Overseas Bank as Executive Director in Indian Overseas Bank for a period of 3 years w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(2)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 486.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, स्टेट बैंक आफ बीकानेर एंड जयपुर के मुख्य महाप्रबंधक श्री अशोक कुमार प्रधान (जन्म तिथि 08.05.1960) को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, युनाइटेड बैंक आफ इंडिया में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(3)/2016-बीओ-I]

ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 486.— In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri Ashok Kumar Pradhan (DOB: 08.05.1960), GGM, State Bank of Bikaner & Jaipur as Executive Director in United Bank of India for a period of 3 years w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(3)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 487.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, विजया बैंक के महाप्रबंधक श्री अतनु कुमार दास (जन्म तिथि 10.06.1963) को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, बैंक आफ इंडिया में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(4)/2016-बीओ-I]
ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 487.— In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri Atanu Kumar Das (DOB: 10.06.1963), GM, Vijaya Bank as Executive Director in Bank of India for a period of 3 years w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(4)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 488.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, इलाहाबाद बैंक के महाप्रबंधक श्री पी. रमण मूर्ति (जन्म तिथि 16.05.1964) को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, सेन्ट्रल बैंक आफ इंडिया में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(5)/2016-बीओ-I]
ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 488.— In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri P. Ramana Murthy (DOB: 16.05.1964), GM, Allahabad Bank as Executive Director in Central Bank of India for a period of 3 years w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(5)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 489.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, कार्पोरेशन बैंक के महाप्रबंधक श्री फरीद अहमद (जन्म तिथि 16.07.1960) को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पंजाब एंड सिंध बैंक में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(6)/2016-बीओ-I]

ज्ञानोतोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 489.— In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri Fareed Ahmed (DOB:16.07.1960), GM, Corporation Bank as Executive Director in Punjab & Sind Bank for a period of 3 years w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(6)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 490.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, स्टेट बैंक आफ मैसूर के मुख्य महाप्रबंधक श्री एम.के. भट्टाचार्य (जन्म तिथि 14.11.1960) को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इंडियन बैंक में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(7)/2016-बीओ-I]

ज्ञानोतोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 490.— In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri M.K. Bhattacharya (DOB: 14.11.1960), CGM, State Bank of Mysore as Executive Director, Indian Bank for a period of 3 years w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(7)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 491.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खण्ड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, स्टेट बैंक आफ त्रावणकोर के मुख्य महाप्रबंधक श्री एस. हरिशंकर (जन्म तिथि 19.05.1961) को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इलाहाबाद बैंक में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5(8)/2016-बीओ-I]

ज्ञानोतोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 491.— In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri S. Harisankar (DOB: 19.05.1961), CGM, State Bank of Travancore as Executive Director in Allahabad Bank for a period of 3 years w.e.f. the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5(8)/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 492.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खंड (5) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (ज) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात, एतद्वारा, श्री सुनील मेहता (जन्म तिथि 22.08.1957) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पंजाब नैशनल बैंक में अंशकालिक गैर-सरकारी निदेशक के साथ-साथ गैर-कार्यकारी अध्यक्ष नियुक्त करती है। यह नियुक्ति इस शर्त के अध्यधीन होगी कि उन्हें पंजाब नैशनल बैंक के बोर्ड में कार्यभार ग्रहण करने से पहले भारतीय स्टेट बैंक के बोर्ड से त्याग-पत्र देना होगा।

[फा. सं. 4/7/2016-बीओ-I]

ज्ञानोतोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 492.— In exercise of the powers conferred by clause (h) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 & clause 5 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Sunil Mehta (DOB: 22.08.1957) as Part Time Non-official Director as well as Non-Executive Chairman in Punjab National Bank for a period of three years from the date of notification of his appointment or until further orders, whichever is earlier. Subject to the condition that he will be required to resign from the Board of State Bank of India before joining on the Board of Punjab National Bank.

[F. No. 4/7/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 16 फरवरी, 2017

का.आ. 493.— राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खंड (5) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (ज) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात,

एतद्वारा, श्री टी.सी.ए. रंगनाथन (जन्म तिथि 19.11.1953) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इण्डियन ओवरसीज बैंक में अंशकालिक गैर-सरकारी निदेशक के साथ-साथ गैर-कार्यकारी अध्यक्ष नियुक्त करती है।

[फा. सं. 4/9/2016-बीओ-I]

ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 16th February, 2017

S.O. 493.— In exercise of the powers conferred by clause (h) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 & clause 5 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri T C A Ranganathan (DOB: 19.11.1953) as Part-Time Non-official director as well as Non-Executive Chairman in Indian Overseas Bank for a period of three years from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 4/9/2016-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 20 फरवरी, 2017

का.आ. 494.— बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की अनुशंसा पर एतद्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खण्ड (ग) के उप-खण्ड (i) के उपबंध आन्ध्रा बैंक पर लागू नहीं होंगे, जहां तक इसका संबंध बैंक के प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी श्री सुरेश एन. पटेल को बैंकर्स इंस्टीट्यूट आफ रूरल डेवलपमेंट (बीआईआरडी) के शासी परिषद के सदस्य के रूप में नामित करने से है।

[फा. सं. 13/27/2013-बीओ-I]

ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 20th February, 2017

S.O. 494.— In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendations of the Reserve Bank of India, hereby declare that the provisions of sub-clauses (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Andhra Bank in so far as it relates to the nomination of Shri Suresh N. Patel, MD&CEO, Andhra Bank as Member of Governing Council of Bankers Institute of Rural Development (BIRD).

[F. No. 13/27/2013-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 27 फरवरी, 2017

का.आ. 495.—केन्द्रीय सरकार, बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 (1970 का 5) की धारा 3 की उप-धारा (2क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय रिजर्व बैंक से परामर्श के पश्चात्, एतदद्वारा, इण्डियन ओवरसीज बैंक की प्राधिकृत पूँजी को तीन हजार करोड़ रुपए से बढ़ाकर दस हजार करोड़ रुपए करती है।

[फा. सं. 11/4/2009-बीओए]

शिवेन्द्र चतुर्वेदी, अवर सचिव

New Delhi, the 27th February, 2017

S.O. 495.—In exercise of the powers conferred by sub-section (2A) of Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, (5 of 1970), the Central Government, after consultation with the Reserve Bank of India, hereby increases the authorized capital of the Indian Overseas Bank from three thousand crores rupees to ten thousand crores rupees.

[F. No. 11/4/2009-BOA]
SHIVENDRA CHATURVEDI, Under Secy.

विदेश मंत्रालय

(सौ.पी.बी. प्रभाग)

नई दिल्ली, 31 जनवरी, 2017

का.आ. 496.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास, दुबई में श्री मुकेश कुमार, सहायक अनुभाग अधिकारी को दिनांक 31 जनवरी, 2017 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

प्रकाश चन्द, उप सचिव (कोंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 31st January, 2017

S.O. 496.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Mukesh Kumar, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Dubai to perform the Consular services with effect from 31 January, 2017.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा प्रभाग)

नई दिल्ली, 17 फरवरी, 2017

का.आ. 497.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत निम्नलिखित कार्यालयों को, ऐसे कार्यालयों के रूप में, जिनके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1	जवाहर नवोदय विद्यालय अंजाव, अरुणाचल प्रदेश – 792102
2	जवाहर नवोदय विद्यालय गोलाघाट, असम – 785621
3	जवाहर नवोदय विद्यालय मोरीगांव, असम – 782105
4	जवाहर नवोदय विद्यालय चुराचांदपुर, मणिपुर – 795128
5	जवाहर नवोदय विद्यालय लॉगतलाई, मिजोरम – 796891
6	जवाहर नवोदय विद्यालय लुंगलेई, मिजोरम – 796691
7	जवाहर नवोदय विद्यालय कोलासिब, मिजोरम – 796075
8	जवाहर नवोदय विद्यालय जांजगीर चंपा, छत्तीसगढ़ - 495661
9	जवाहर नवोदय विद्यालय कोरिया, छत्तीसगढ़ – 497335

10	जवाहर नवोदय विद्यालय सुकमा, छत्तीसगढ – 494111
11	जवाहर नवोदय विद्यालय अलीराजपुर, मध्य प्रदेश – 457887
12	जवाहर नवोदय विद्यालय उज्जैन – II, मध्य प्रदेश – 456335
13	जवाहर नवोदय विद्यालय अंगुल, ओडिशा – 759106
14	जवाहर नवोदय विद्यालय गजपति, ओडिशा - 761201
15	जवाहर नवोदय विद्यालय जगतसिंहपुर, ओडिशा – 754140
16	जवाहर नवोदय विद्यालय जाजपुर, ओडिशा – 755043
17	जवाहर नवोदय विद्यालय झारसुगुडा, ओडिशा – 768202
18	जवाहर नवोदय विद्यालय कोरापुट, ओडिशा – 764021
19	केन्द्रीय विद्यालय, कवरत्ती, - (लक्ष्मीप संघ शासित प्रदेश) – 682555
20	केन्द्रीय विद्यालय, श्रावस्ती भिनगा, श्रावस्ती (उत्तर प्रदेश) – 271831
21	केन्द्रीय विद्यालय, शिवगढ, शिवगढ पैलेस, रायबरेली (उत्तर प्रदेश) – 229308
22	केन्द्रीय विद्यालय, हरदोई, (राजकीय इंटर कॉलेज परिसर), घंटाघर रोड, हरदोई (उत्तर प्रदेश) – 241001

[सं. 11011-3/2016-रा.भा.ए.]

सुखबीर सिंह संधु, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

(O.L. UNIT)

New Delhi, the 17th February, 2017

S.O. 497—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the Ministry of Human Resource Development, (Department of School Education & Literacy) as office, whose more than 80% members of the staff have acquired working knowledge of Hindi :-

1.	Jawahar Navodaya Vidyalaya Anjaw, Arunachal Pradesh - 792102
2.	Jawahar Navodaya Vidyalaya Golaghat, Assam - 785621
3.	Jawahar Navodaya Vidyalaya Morigoan, Assam - 782105
4.	Jawahar Navodaya Vidyalaya Churachandpur, Manipur - 795128
5.	Jawahar Navodaya Vidyalaya Lawngtlai, Mizoram - 796891
6.	Jawahar Navodaya Vidyalaya Lunglei, Mizoram - 796691
7.	Jawahar Navodaya Vidyalaya Kolasib, Mizoram - 796075
8.	Jawahar Navodaya Vidyalaya Janjgir Champa, Chhattisgarh – 495661

9.	Jawahar Navodaya Vidyalaya Koria, Chhattisgarh – 497335
10.	Jawahar Navodaya Vidyalaya Sukma, Chhattisgarh – 494111
11.	Jawahar Navodaya Vidyalaya Alirajpur, Madhya Pradesh – 457887
12.	Jawahar Navodaya Vidyalaya Ujjain- II, Madhya Pradesh – 456335
13.	Jawahar Navodaya Vidyalaya Angul, Odisha – 759106
14.	Jawahar Navodaya Vidyalaya Gajapati, Odisha – 761201
15.	Jawahar Navodaya Vidyalaya Jagatsinghpur, Odisha – 754140
16.	Jawahar Navodaya Vidyalaya Jajpur, Odisha – 755043
17.	Jawahar Navodaya Vidyalaya Jharsuguda, Odisha – 768202
18.	Jawahar Navodaya Vidyalaya Koraput, Odisha – 764021
19.	Kendriya Vidyalaya, Kavaratti, (U.T. of Lakshadweep) - 682555
20.	Kendriya Vidyalaya, Shrawasti Bhinga, Shrawasti, (Uttar Pradesh) – 271831
21.	Kendriya Vidyalaya, Shivgarh, Shivgarh Palace, Raebareli, (Uttar Pradesh) – 229308
22.	Kendriya Vidyalaya, Hardoi, (Govt Inter College Campus), Ghantaghar Road, Hardoi (Uttar Pradesh) - 241001

[No. 11011-3/2016-O.L.U]
SUKHBIR SINGH SANDHU, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 20 फरवरी, 2017

का.आ. 498.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 69/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 20th February, 2017

S.O. 498.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding OfficerDated the 18th day of January, 2017**INDUSTRIAL DISPUTE L.C.No. 69/2007****Between:**

Sri Jageti Kumara Swamy,
 S/o Posham,
 C/o Smt. A. Sarojana,
 Advocate, Flat No.G7,
 Rajeshwari Gayatri Sadan,
 Opp: Badruka Jr. College for Girls,
 Kachiguda, Hyderabad .

... Petitioner

AND

1. The General Manager,
 M/s. Singareni Collieries Company Ltd.,
 Mandamarri Area, Mandamarri,
 Adilabad District.
2. The Colliery Manager,
 M/s. Singareni Collieries Company Ltd.,
 KK-5 Incline, Mandamarri Area,
 Mandamarri, Adilabad District. ... Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri Jageti Kumara Swamy who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. P/MM/7/2/00/4665 dated 3.11.2000 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler in the year 1988 and thereafter confirmed as Coal Filler in 1995. The Petitioner was regular to his duties from the date of his appointment. But during the year 1998, the Petitioner suffered with illness and other family problems, for which the Petitioner remained absent. While the matters stood thus, one charge sheet dated 5.3.1999 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 1998, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. P/MM/7/2/00/4665 dated 3.11.2000. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 1998 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered thirteen years of

continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. P/MM/7/2/00/4665 dated 3.11.2000 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc.

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 12.12.1988 as Badli Filler and was later appointed as Coal Filler from 1.9.1995. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 24.2.2009.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Jageti Kumara Swamy is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show-cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, without considering any of the explanations of the Petitioner the authority has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to the illness of the Petitioner and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and one proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed and the Petitioner was dismissed from service. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court of Law at the age of 40 years, he is now aged about 50 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than five years under the Respondents' management. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family

members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Jageti Kumara Swamy is not legal and justified.

Thus, Point No.I is answered accordingly.

10. Point Nos. II & III: In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Jageti Kumara Swamy is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for his reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has already become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. P/MM/7/2/00/4665 dated 3.11.2000 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Jageti Kumara Swamy be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have either to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 18th day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 499.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 119/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 25th day of January, 2017

INDUSTRIAL DISPUTE L.C.No. 119/2007

Between:

Sri Raj Mohammad,
S/o Roshan Ali,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The Director(PA&W)
M/s. Singareni Collieries Company Ltd.,
Kothagudem, Khammam District.
2. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Srirampur Area, Srirampur,
Adilabad District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri Raj Mohammad who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. CRP/PER/IR/D/91/4781 dated 14.5.2007 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows:**

The Petitioner was appointed as badli filler on 29.5.1982 and subsequently promoted as Coal Filler in the year 1993 and further he was promoted as Shot Firer(C) in the year 2000. The Petitioner was regular to his duties from the date of his appointment. But during the year 2005, the Petitioner's mother expired and the Petitioner suffered with illness and

other family problems, for which the Petitioner remained absent in his duties. While the matters stood thus, one charge sheet dated 17.3.2006 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 2005, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. CRP/PER/IR/D/91/4781 dated 14.5.2007. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 2005 was only on account of his mother's death, ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered twenty three years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. CRP/PER/IR/D/91/4781 dated 14.5.2007 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc.

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 29.5.1982 as Badli Filler and was subsequently promoted as Sr. Mining Sirdar. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show-cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 19.3.2010.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Raj Mohammad is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show-cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, without considering any of the explanations of the Petitioner the authority has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, the death of the mother of the Petitioner, due to illness of the Petitioner and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed and the Petitioner was dismissed from service. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court of Law at the age of 50 years, he is now aged about 59 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work in the management, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than twenty five years under the Respondents' management. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Raj Mohammad is not legal and justified.

Thus, Point No. I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Raj Mohammad is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for his reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. Now the Petitioner is aged about 59 years. Even though he is able to work but he can not work more due to his age limit. He has already served more than 20 years in the Respondents' management. For his benefit and for the benefit of his family members he be reinstated into service and be given a chance to work in the management at the last age of his service.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. CRP/PER/IR/D/91/4781 dated 14.5.2007 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Raj Mohammad be reinstated into service with continuity of service, subject to medical fitness by the company Medical Board. He is also entitled to get terminal benefits and all other attendant benefits without back wages.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 25th day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 500.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 32/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 18th day of January, 2017

INDUSTRIAL DISPUTE L.C.No. 32/2009

Between:

Sri Kambala Rayamallu,
S/o Ellaiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad . . .Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri,
Adilabad District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
SMG-1 Incline, Mandamarri Area,
Mandamarri, Adilabad District. . .Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent: Sri S.M. Subhani, Advocate

AWARD

Sri Kambala Rayamallu who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. MMR/PER/D/072/4099 dated 30.9.2002 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows:**

The Petitioner was appointed as badli filler in the year 1986 and was regular to his duties till the year 1997. But during the year 1999, the Petitioner and his father suffered illness, for which the Petitioner remained absent. While the matters stood thus, charge sheet dated 30.9.2002 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 1999, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. MMR/PER/D/072/4099 dated 30.9.2002. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 1999 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered thirteen years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. MMR/PER/D/072/4099 dated 30.9.2002 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:**

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 12.10.1986 as Badli Filler and was later regularized as Coal Filler from 1.3.1993. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 25.8.2010.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Kambala Rayamallu is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, without considering the explanation of the Petitioner, the authority has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to the illness of the Petitioner and family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and one proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed and the Petitioner was dismissed from service. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court of Law at the age of 40 years, he is now aged about 46 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than five years under the Respondents' management. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Kambala Rayamallu is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Kambala Rayamallu is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for his reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has already become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. MMR/PER/D/072/4099 dated 30.9.2002 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Kambala Rayamallu be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have either to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 18th day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 501.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 49/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 19th day of January, 2017

INDUSTRIAL DISPUTE L.C.No. 49/2010

Between:

Sri Chevula Iylaiyah,
S/o Mallaiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Srirampur Area, Srirampur,
Adilabad District.

2. The Superintendent of Mines,
 M/s. Singareni Collieries Company Ltd.,
 SRP-2A Incline, Srirampur,
 Adilabad District. ...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

Sri Chevula Iylaiah who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. SRP(P)/P(IR)/35/97/3063 dated 22.12.1997 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler in the year 1991 and later by virtue of his hard work he was converted as Coal Filler in the year 1993. The Petitioner was regular to his duties till the year 1995. But during the year 1996, the Petitioner could not be regular to his duties during the year 1996. While the matters stood thus, a charge sheet was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 1996, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. SRP(P)/P(IR)/35/97/3063 dated 22.12.1997. It is stated that during the course of the enquiry the Petitioner has categorically stated, his inability to perform his duties regularly during the year 1996, was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered four years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. SRP(P)/P(IR)/35/97/3063 dated 22.12.1997 issued by the Respondents as illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 10.5.1991 as Badli Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. The domestic enquiry conducted in the present is held as legal and valid vide order dated 4.7.2016.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Chevula Iylaiah is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, without considering any of the explanations of the Petitioner the authority has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed and the Petitioner was dismissed from service. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court of Law at the age of 39 years, he is now aged about 46 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than five years under the Respondent management. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Chevula Iylaiah is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Chevula Iylaiah is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for his reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. SRP(P)/P(IR)/35/97/3063 dated 22.12.1997 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Chevula Iylaiah be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have either to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will

be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 19th day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 502.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 29/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सोएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 19th day of January, 2017

INDUSTRIAL DISPUTE L.C.No. 29/2009

Between:

Sri Naredla Ravinder,
S/o N. Chandraiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bhupalpally, Warangal District.
2. The Dy. General Manager,
M/s. Singareni Collieries Company Ltd.,
KTK-5 Incline, Bhupalpally,
Warangal District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

Sri Naredla Ravinder who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. BHP/PER/20-D/224 dated 11.1.2008 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli coal filler on 23.3.1993 and got confirmed as Coal Filler during the year 1995. The Petitioner was regular to his duties till the year 2003. But during the year 2004, the Petitioner suffered illness, for which the Petitioner remained absent. While the matters stood thus, one charge sheet dated 10.5.2005 was issued to the Petitioner by the Respondents alleging that the Petitioner absented from duty during the year 2004 , which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. BHP/PER/20-D/224 dated 11.1.2008. It is stated that during the course of the enquiry the Petitioner has categorically stated, his inability to perform his duties regularly during the year 2004, was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered ten years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. BHP/PER/20-D/224 dated 11.1.2008 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 18.9.1993 as Badli Filler and subsequently promoted as Coal Filler from 1.9.1995. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal

from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 19.8.2010.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Naredla Ravinder is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, without considering any of the explanations of the Petitioner the authority has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court of Law at the age of 36 years, but he is now aged about 44 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work, atleast one chance should be given to him for his reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than five years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Naredla Ravinder is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Naredla Ravinder is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. BHP/PER/20-D/224 dated 11.1.2008 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Naredla Ravinder be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have either to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc., to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 19th day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 503.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 57/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 503.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD**Present:** Sri Muralidhar Pradhan, Presiding OfficerDated the 19th day of January, 2017**INDUSTRIAL DISPUTE L.C.No. 57/2010****Between:**

Sri A. Thirupathi Swamy,
 S/o Narsaiah,
 C/o Smt. A. Sarojana,
 Advocate, Flat No.G7,
 Rajeshwari Gayatri Sadan,
 Opp: Badruka Jr. College for Girls,
 Kachiguda, Hyderabad . . .Petitioner

AND

1. The General Manager,
 M/s. Singareni Collieries Company Ltd.,
 Mandamarri Area, Mandamarri,
 Adilabad District.
2. The Superintendent of Mines,
 M/s. Singareni Collieries Company Ltd.,
 RK-3 Incline, Mandamarri,
 Adilabad District. . .Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri,
 Advocates**AWARD**

Sri A. Thirupathi Swamy who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. P/RKP/16/99/668 dated 9.3.1999 issued by Respondent No. 1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli coal filler on 5.3.1992 under dependent employment and was regular to his duties till the year 1996. But during the year 1996, the Petitioner met with a mine accident, and consequent upon the accident, the Petitioner suffered several consequential ailments, which compelled the Petitioner not to be regular to his duties during the year 1997 which was intimated to 2nd Respondent by the family members of the Petitioner. While the matters stood thus, one charge sheet dated 6/14.5.1998 was issued to the Petitioner by the Respondents alleging that the Petitioner absented from duty during the year 1997, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted, and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was

dismissed from service vide order No. P/RKP/16/99/668 dated 9.3.1999. It is stated that during the course of the enquiry the Petitioner has categorically stated about his inability to perform his duties regularly during the year 1997 which was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered six years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. P/RKP/16/99/668 dated 9.3.1999 issued by the Respondents as illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 9.3.1992 as Badli Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 8.8.2013.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri A. Thirupathi Swamy is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, without considering any of the explanations of the Petitioner the authority has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum muster in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed and the Petitioner was dismissed from service. After dismissal of service, the Petitioner has become jobless and unable to

provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court of Law at the age of 36 years, he is now aged about 45 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than five years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri A. Thirupathi Swamy is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri A. Thirupathi Swamy is not legal and justified. After dismissal of service as stated above, when the Petitioner has already realised his mistake and has come to the court with a prayer for his reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. P/RKP/16/99/668 dated 9.3.1999 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri A. Thirupathi Swamy be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 19th day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 504.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 42/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 19th day of January, 2017

INDUSTRIAL DISPUTE No. 42/2005

Between:

Sri Syed Abdul Waheed,
S/o Rayamallu,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bellampalli Division,
Bellampalli – 504251.

...Respondent

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 22012/117/2004-IR(CM-II) dated 10.5.2005 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Divn., Bellampalli in terminating the services of Sri Syed Abdul Waheed, Ex-Badli Filler, MVK-6 Inc., Bellampalli Divn., with effect from 19.2.1999 is legal and justified? If not, to what relief the concerned workman is entitled?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No. 42/2005 and issued notices to both the Petitioner union and the management. They both appeared before the court and engaged their respective counsels with the leave of the court and consent of either party.

2. The averments made in the claim statement in brief are as follows:

The Petitioner workman was appointed as badli filler on 16.2.1996 and was regular to his duties in the same year. In the year 1998 the workman suffered with ill-health and other family problems for which he was not regular in his duties. While the matters stood thus, one charge sheet was issued to the workman by the Respondent alleging that the workman absented for duty during the year 1998, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Workman was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Workman was dismissed from service vide order dated 19.2.1999. It is stated that during the course of the enquiry the Workman has categorically stated that his inability to perform his duties regularly during the year 1998 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Workman was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Workman from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Workman has rendered three years of continuous service in the Respondents' management. The Workman approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Workman was constrained to approach this Tribunal to declare the impugned order dated 19.2.1999 issued by the Respondent is illegal and arbitrary and to set aside the same and consequently to direct the Respondent to reinstate the Workman into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondent filed counter denying the averments made in the claim statement, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Workman was appointed in the Respondents' company on 16.2.1996 as Badli Filler and continued to be in the same designation till his dismissal without regularization of his services. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Workman has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Workman was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Workman by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Workman is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Workman from service. It is stated that in fact the Workman was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Workman is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Workman stating that workman is not interested to prosecute the validity of the domestic enquiry and ready to argue the matter on merit, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 31.10.2016.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Syed Abdul Waheed is legal and justified?
- II. Whether the Workman is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Workman submitted that due to illness and family problems, the Workman could not be able to attend his duty sincerely. Even in his show cause the Workman has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Workman. When the Workman has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment.

The authority has not considered any of the submissions of the Workman, has given capital punishment to the Workman when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Workman was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Workman was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Workman could not be able to be regular in his duty, the Workman has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Workman were proved. For this, capital punishment was imposed. After dismissal of service, the Workman has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court and is searching ways and means to provide bread and butter to his family members. When the Workman being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Workman is a first offender and has worked for more than five years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Syed Abdul Waheed is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Syed Abdul Waheed is not legal and justified. After dismissal of service as stated earlier, when the Workman has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Workman has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Workman should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Workman has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Workman is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

RESULT:

The action of the management i.e., the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Division, Bellampalli in terminating the services of Sri Syed Abdul Waheed, Ex.Badli Filler, MVK-6 inc., Bellampalli Division with effect from 19.2.1999 is not legal and justified. Proceeding dated 19.2.1999 issued by Respondent is declared as illegal and is hereby set aside. It is ordered that the workman Sri Syed Abdul Waheed be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 19th day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 505.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संघ्या 20/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 505.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 31st day of January, 2017

INDUSTRIAL DISPUTE No. 20/2014

Between:

The President,
(Sri Bandari Lingaiah),
Telengana Trade Union Council,
H.No.5-295, Indranagar,
Opp. Bus Stand, Mancherial – 504 208.
Adilabad District.

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri (P.O.)-504231
Adilabad.

...Respondent

Appearances:

For the Petitioner : Party in person

For the Respondent : Sri V.S.V.S.R.K.S. Prasad, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/ 179/ 2014 -IR(CM-II) dated 28.1.2014 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad Distt. in terminating the services of Sri Duta Mallaiah, Ex-Coal Filler, RK-1A Inc., Mandamarri Area, with effect from 9.4.2001 is justified? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 20/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement of the Petitioner union. Inspite of availing several opportunities, the Petitioner union and Respondent remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 31st day of January, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 फरवरी, 2017

का.आ. 506.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 51/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2017 को प्राप्त हुआ था।

[सं. एल-22013/2/2017-आईआर (सीएम-II)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2017

S.O. 506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 20.02.2017.

[No. L-22013/2/2017-IR (CM-II)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD**

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 19th day of December, 2016

INDUSTRIAL DISPUTE L.C.No. 51/2008**Between:**

Sri Beenaboina Kumara Swamy,
S/o Rayamallu,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri,
Adilabad District.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
KK-1 Incline, Mandamarri Area,
Mandamarri, Adilabad District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri S.M. Subhani, Advocate

AWARD

Sri Beenaboina Kumara Swamy who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. P/MM/7/2/99/2325 dated 4.7.1999 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler in the year 1992. The Petitioner was regular to his duties. But from the year 1994 onwards, the Petitioner suffered with several ailments, such as Infective Hepatitis, Severe Acid Peptic disease and Ch.Dyspepsia Neuralgia for which he has taken treatment from various hospitals. Apart from the above ailments, the Petitioner's wife expired during the year 1995 and further, his father expired during the year 1996. All the above predicaments compelled the Petitioner not to be regular to his duties during the year 1997. While the matters

stood thus, charge sheet dated 20.3.1998 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 1997, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. P/MM/7/2/99/2325 dated 4.7.1999. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 1997 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered five years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. P/MM/7/2/99/2325 dated 4.7.1999 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 7.2.1992 as Badli Filler and continued to be in the same designation till his dismissal without regularization of his services. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 23.6.2010.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Beenaboina Kumara Swamy is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, death of his wife and father, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Petitioner, has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 37 years, he is now aged about 45 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than five years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Beenaboina Kumara Swamy is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Beenaboina Kumara Swamy is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. P/MM/7/2/99/2325 dated 4.7.1999 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Beenaboina Kumara Swamy be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have either to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 19th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 22 फरवरी, 2017

का.आ. 507.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 419/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-12011/140/2001-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd February, 2017

S.O. 507.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 419/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Bank of India, and their workmen, received by the Central Government on 22.02.2017.

[No. L-12011/140/2001-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 16th January, 2017

Reference: (CGITA) No. 419/2004

The Zonal Manager,
Bank of India, Zonal Office,
Gandhinagar Region,
Gandhinagar (Gujarat)

...First Party

V/s

The General Manager,
Bank of India Staff Union,
C/o Bank of India, Main Branch, Bhadra,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri P.S. Chari
For the Second Party : Shri A.D. Desai

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/140/2001IR (B-II) dated 10.10.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the action of the management of Zonal Manager, Bank of India, Gandhinagar Zone, Gandhinagar in giving the punishment of reduction of pay by two stage with cumulative effect to Shri N.S. Patel, Staff Clerk is legal, proportionate to the misconduct and justified? If not, what relief the concerned employee is entitled to?”

1. The reference dates back to 10.10.2001. Both the parties filed their statement of claim Ex. 3 and written statement Ex. 8 on 20.02.2006 and 03.08.2008 respectively. Since then the second party has not lead his evidence and today on 16.01.2017, the second party workman N.S. Patel has moved an application Ex. 14 alleging that he is due to retire on 31.01.2017 and also requests the bank first party to consider his case with sympathy, therefore, he does not want to prosecute the case and withdraw from the reference.
2. In the light of the aforesaid application Ex. 14, the reference is disposed of with the direction to the first party bank to consider his case with sympathy and humanity.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 508.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 200/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-12012/87/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd February, 2017

S.O. 508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 200/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda, and their workmen, received by the Central Government on 22.02.2017.

[No. L-12012/87/2013-IR (B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 18th January, 2017

Reference: (CGITA) No. 200/2013

1. The Regional Manager,
Bank of Baroda, Regional Office,
Suraj Plaza, Sayajiganj,
Baroda (Gujarat)
2. The Branch Manager,
Bank of Baroda, Dabhoi Branch, Lal Bazar,
Dabhoi (Gujarat) ...First Party

V/s

Ms. Laxmiben Shaileshbhai Vasava,
Government Hospital, Vankar Vas,
Dabhoi, Distt. Braoda,
Baroda (Gujarat) – 390001 ...Second Party

For the First Party : Shri K.V. Gadhia
For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/87/2013-IR (B-II) dated 25.11.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of Baroda through its officers in terminating the services of Smt. Laxmiben S. Vasava, Sweeper w.e.f. 24.11.2012 is legal, proper and just? What relief the concerned workman is entitled to?”

1. The reference dates back to 25.11.2013. Both the parties were issued notice Ex. 2 for to appear on 10.09.2015 to submit their submissions. First party submitted the vakalatpatra Ex. 3 of his advocate Shri K.V. Gadhia on 05.11.2015 but the second party did not prefer to submit the statement of claim despite giving number of opportunities.
2. Again the tribunal issued a fresh notice Ex. 4 to the second party workman to appear on 17.06.2016 and submit the statement of claim. The acknowledgement of receipt of notice by the second party workman is also received but second party workman did not appear to submit his statement of claim.
3. Thus it appears that the second party workman has not been willing to prosecute the reference. Therefore, this tribunal has no alternative but to dispose of the reference against the second party workman with the observation as under: “the action of the management of Bank of Baroda through its officers in terminating the services of Smt. Laxmiben S. Vasava, Sweeper w.e.f. 24.11.2012 is legal, proper and just.”

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 509.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 59/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-12012/21/2014-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd February, 2017

S.O. 509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Dena Bank, and their workmen, received by the Central Government on 22.02.2017.

[No. L-12012/21/2014-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 19th January, 2017

Reference: (CGITA) No. 59/2014

The Regional Manager,
Dena Bank, Rajkot Regional Office,
1st Floor, Giriraj Chambers, Rajput Para Main Road,
Rajkot (Gujarat) – 360001

...First Party

V/s

Shri Joshi Vrajlal Harishankar,
 At.Bheda Pipaliya, Post – Devki Galol,
 Tal – Jetpur, Distt. Rajkot,
 Rajkot (Gujarat)

...Second Party

For the First Party : Shri C.S. Naidu
 For the Second Party : Shri P.C. Nasit

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/21/2014-IR (B-II) dated 13.06.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Dena Bank, Jetpur Branch, Rajkot in not paying the bonus to Shri Joshi Vrajlal Harishankar for the period of years 1991-92, 1992-93, 1993-94, 1994-95 and 2005-06 is justified? What relief the application is entitled to?”

1. The reference dates back to 13.06.2014. After service of notice on both the parties and also filing vakalatpatra Ex. 3 by second party, the advocate for the second party on 19.01.2017 expressed unwillingness to prosecute the reference on the ground that Reference (CGITA) No. 130/2013 is still pending on the same question and therefore, has not pressed this reference.
2. Thus the reference is disposed as not pressed subject to the award to be passed in Reference (CGITA) No. 130/2013.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 510.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 45/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-12012/210/1995-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd February, 2017

S.O. 510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Dena Bank, and their workmen, received by the Central Government on 22.02.2017.

[No. L-12012/210/1995-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT-cum-Labour Court,
 Ahmedabad,
 Dated 25th January, 2017

Reference: (CGITA) No. 45/2004

The Manager,
Dena Bank,
R.O. Dana Laxmi Building, Sector – 16,
Gandhinagar (Gujarat)

...First Party

V/s

Shri Shilpkumar Roy,
B-2/13, Goyak Intercity,
Opposite Ahmedabad Doordarshan Centre,
Dhaktej, Ahmedabad

...Second Party

For the First Party : Shri J.M. Patel
For the Second Party : Shri M.H. Sangharyat

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/210/95-IR (B-II) dated 05.12.1996 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the action of the management of Dena Bank, Gandhinagar in dismissing the services of Shri Shilpkumar P. Roy, Cashier-cum-Clerk is proper, reasonable and justified and whether the said punishment is proportionate to the gravity if the alleged misconduct and acts of omission and commission on the part of the workman? If not, to what relief, the concerned workman is entitled and from which date and what directions are necessary in this matter?”

1. The reference dates back to 05.12.1996. The second party submitted the vakalatpatra of his advocate Shri D.S. Basavada Ex. 3 on 17.11.1997 and also submitted the statement of claim Ex. 4 on same date. The first party submitted the written statement Ex. 5 on 10.09.1997 along with vakalatpatra Ex. 6 of his advocate Jaswant M. Patel and others. Thereafter the second party workman filed 62 documents vide list Ex. 7 on 04.10.1999. Since then the second party has been absent and failed to lead evidence thereat Industrial Tribunal Ahmedabad, therefore, after receiving the record of reference from the Industrial Tribunal, Ahmedabad, fresh notice Ex. 18 was issued to the second party workman to appear on 20.06.2011 but notice was received as unserved. Despite this fact that the tribunal kept the reference with the expectation that the workman will appear and will lead evidence. But till 17.02.2016, second party workman did not appear, however an advocate named M.H. Sangharyat moved an application Ex. 20 on 17.02.2016 seeking time to file vakalatpatra on behalf of the second party workman and also to get the second party workman appear. On 17.02.2016, the case was listed for 22.06.2016 and thereafter for 16.11.2016 and 25.01.2017. But neither the second party workman appeared nor the aforesaid advocate appeared to prosecute the case.
2. Thus it appears that the second party is not willing to prosecute the case. Therefore, the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the action of the management of Dena Bank, Gandhinagar in dismissing the services of Shri Shilpkumar P. Roy, Cashier-cum-Clerk was proper, reasonable and justified and the said punishment was also proportionate to the gravity of the misconduct.”

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 511.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियाजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 47/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-12012/19/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd February, 2017

S.O. 511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda, and their workmen, received by the Central Government on 22.02.2017.

[No. L-12012/19/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 01st February, 2017

Reference: (CGITA) No. 47/2010

1. The Chief Manager (Office Administration),
Bank of Baroda, Zonal Office,
North Gujarat Zone, Income Tax Circle, Ashram Road,
Ahmedabad (Gujarat)
2. The Bank of Baroda,
Registered Office, Mandvi,
Baroda (Gujarat) ...First Party

V/s

Shri Kanjibhai Bhikha Bhai Desai,
43, Amarpura Society,
Near Dhanjibhai Kuva, Chandlodiya Road,
Ahmedabad (Gujarat) ...Second Party

For the First Party : Shri V.K. Mashar
For the Second Party : Shri Shashikant Gade

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/19/2010-IR (B-II) dated 12.03.2010 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of Baroda, in terminating the services of Shri Kanjibhai Desai, Driver-cum-Peon w.e.f. 01.09.1995 is legal and justified? What relief the workman is entitled to?”

1. The reference dates back to 12.03.2010. The second party workman KanjibhaiBhikhambhai Desai submitted the statement of claim Ex. 8 alleging that he was appointed as Driver-cum-Peon by first party Bank of Baroda on 21.10.1969. He proceeded on medical leave on 14.11.1994 submitting an application annexed with the medical certificate issued by private MBBS medical practitioner. On 22.04.1995, he was asked to submit the medical certificate issued by the Civil Surgeon, Ahmedabad and the medical certificate as submitted earlier is not valid. He further alleged that he requested the branch manager to join with an undertaking that he will later submit the medical certificate issued by the Civil Surgeon. But despite several and frequent requests, he was not permitted to join. He tried to contact the civil hospital but he was not examined in the civil hospital and told that he shall be issued medical certificate only when the Resident Medical Officer directs so. Thus he finally alleged that he has been denied the opportunity of joining the service without any basis because the bank may get him medically examined by the authorised medical officer of the first party bank or the medical officer of the Civil Hospital.

2. The first party vide his written statement Ex. 10 submitted that all the averments, statements and submissions made in the statement of claim filed by the second party save and except which are specifically admitted hereinafter in the written statement are denied. The present reference is not legally tenable and the tribunal has no jurisdiction to adjudicate the reference. The second party workman was a proven in discipline employee and had been unauthorisedly the absent for a long period of time, therefore, in compliance of the service rules, he was asked to submit fitness certificate issued by the Civil Surgeon but he failed to do so. Therefore, his services was having been treated as voluntarily ceased w.e.f. 01.09.1995 and accordingly his name was struck off from the muster roll on the same day as per Para 17 of the 5th Bipartite Settlement. Thus the second party workman has no legal right to raise the Industrial Dispute and the reference is deserved to be rejected. It has been further submitted that the second party workman has not come with the clean hands and suppressed the material facts. The reference has also been made after a long period of 10 years. Thus time barred and not maintainable.

3. On the basis of the pleadings, the following issues arise:

Issue No. i: Whether the action of the management of Bank of Baroda, in terminating the services of Shri Kanjibhai Desai, Driver-cum-Peon w.e.f. 01.09.1995 is legal and justified?

Issue No. ii: To what relief, if any, the workman is entitled to?

4. **Issue No. i:** The second party workman to prove the issue no. I being having the legal duty to prove submitted the affidavit Ex. 11 reiterating the averments made in the statement of claim and also submitted the documents vide Ex. 12 on 29.09.2011 and 02.02.2012 respectively which are as below:

Date	Particular
21.10.1969	Bank's Temp. appointment letter
24.11.1969	Bank's appointment order
13.11.1990	Bank's transfer order
08.12.1994	Bank's Notice
23.12.1994	Bank's Notice
-----	Workman's reply
28.12.1994	Workman's reply along with medical certificate
22.03.1995	Bank's notice for voluntary retirement
22.03.1995	Bank's Notice
21.04.1995	Workman's attendance report along with medical certificate
22.04.1995	Bank's notice for civil surgeon certificate in English
22.04.1995	Bank's notice for civil surgeon certificate in Gujarati
22.04.1995	Workman's attendance report
28.04.1995	Reply of Bank's notice for voluntary retirement by workman Second Party along with Regd. AD Receipt and acknowledgement
06.05.1995	Bank's notice
07.06.1995	Workman's letter to Bank with Regd. Post A.D. receipt
14.06.1995	Civil Hospital Ahmedabad case Paper for Civil surgeon Certificate
07.06.1995	Bank's letter to civil hospital
27.06.1995	Bank's notice for voluntary retirement
15.03.1998	Bank's transfer order of workman
20.12.2000	Workman's notice to Bank through Advocate
25.01.2001/12.02.2001	Bank's reply

03.10.2002	Workman's letter to Union
05.10.2002	Union's letter to workman i.e. second party
--09.2003	Gujarat High Court petition filed by workman second party along with order of Hon. Gujarat High Court in SCA 13030/2004 and computer status

It is noteworthy that the workman submitted the affidavit and documents a long back as stated above but he has been absent since 08.04.2013 for cross-examination by the advocate of the first party bank. It is also noteworthy that the advocate for the second party vide purses Ex. 14 submitted that the workman has died on 09.02.2012 and his legal dues may be settled by the bank. The bank vide letter Ex. 15 submitted 01.02.2017 that the proposal submitted by the legal heir of the workman, if any, are not acceptable. As none has been appearing for the second party workman and workman has died on 24.02.2012 as appears from the death certificate, therefore, in the absence of the cross-examination of the workman, it becomes a case of no evidence and the issue no. i is decided in affirmative and against the deceased workman.

5. **Issue No. ii:** In the light of the finding of the Issue No. i, no relief can be granted and issue is decided in negative and against the deceased workman.
6. The award is passed accordingly.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 512.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 101/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-12012/05/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd February, 2017

S.O. 512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra, and their workmen, received by the Central Government on 22.02.2017.

[No. L-12012/05/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 02nd February, 2017

Reference: (CGITA) No. 101/2013

The Branch Manager,
Bank of Maharashtra, Pamji Takra,
Bulsad (Gujarat)

... First Party

V/s

Shri Bhaveshkumar Ramanbhai Solanki,
Qtr. No. 835/A, East Railway Yard,
Valsad (Gujarat)

For the First Party : Ms. Hina Desai
For the Second Party :

...Second Party

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/05/2013-IR(B-II) dated 02.05.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the workman Shri Bhaveshkumar Ramanbhai Solanki for reinstatement in service in Bank of Maharashtra, Valsad is legal, just and proper? What relief the concerned workman Shri Bhaveshkumar Ramanbhai Solanki is entitled to?”

1. The reference dates back to 02.05.2013. Both the parties were served by registered post on 23.02.2015. Acknowledgement of service Ex. 3 and 4 are also received. The advocate for the first party Ms. Hina Desai submitted his vakalatpatra Ex. 5 and 8 on 23.04.2015 and 02.02.2017 respectively and also submitted the written statement of the first party Ex. 9 today on 02.02.2017. But even after 2 years period, the second party has been absent and has also not bothered to submit the authority letter or vakalatpatra of his attorney till date. Thus it appears that the second party has not been willing to prosecute the case.
2. Therefore, the tribunal has no alternative but to dispose of the reference in the absence of statement of claim and evidence of the second party workman with the observation as under: “the demand of the workman Shri Bhaveshkumar Ramanbhai Solanki for reinstatement in service in Bank of Maharashtra, Valsad is not legal, just and proper.”
3. The award is passed accordingly.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 197/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-37011/15/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd February, 2017

S.O. 513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 197/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust, and their workmen, received by the Central Government on 22.02.2017.

[No. L-37011/15/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 24th January, 2017

Reference: (CGITA) No. 197/2013

The Secretary,
Kandla Port Trust, Administrative Office,
Post Box No. 50, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Kandla Port & Dock Employees Union,
Saibaba Complex, Office No. 216/12-B,
Gopalpuri Road,
Gandhidham, Kutch (Gujarat)

...Second Party

For the First Party : Shri K.V. Gadhia
For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/15/2013-IR (B-II) dated 20.11.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of KPT Management in providing daily rated employment to Shri Gulabram, son of Shri Daularam Regar, in place of regular employment is justified? What relief he is entitled to?”

1. The reference dates back to 20.11.2013. Both the parties were issued notices to appear on 10.09.2015. First party Kandla Port Trust submitted the vakalatpatra of his solicitor firm K.V. Gadhia Associates on 05.11.2015 but the second party Kandla Port & Dock Employees Union did not prefer to appear and submit his statement of claim and authority letter of his representative. Therefore, a fresh notice was issued to the second party on 17.02.2016 to appear on 21.06.2016 for response but to no result. On 21.06.2016 and 15.11.2016, second party was given opportunity to file statement of claim but that too no result.
2. Thus it appears that the second party is not willing to prosecute the case. Therefore, the reference is disposed of in the absence of the statement of claim of the second party with the observation as under: “the action of KPT Management in providing daily rated employment to Shri Gulabram, son of Shri Daularam Regar, in place of regular employment is justified.”

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 514.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद के पंचाट (संदर्भ संख्या 17/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/97/2012-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway, and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/97/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**Present :**

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT-cum-Labour Court,
 Ahmedabad,
 Dated 05th August, 2016

Reference: (CGITA) No. 17/2013

The Divisional Railway Manager (E),
 Western Railway, Divisional Office,
 Ahmedabad (Gujarat) ...First Party

V/s

The Divisional Secretary,
 Paschim Railway Karmachari Parishad,
 E/209, Sarvotam Nagar, Sabarmati,
 Ahmedabad (Gujarat) ...Second Party

For the First Party : None
 For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/97/2012-IR (B-I) dated 28.01.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Ahmedabad Division, in violating the Railway service rules and not granting the benefit of promotion to Shri Divakaran and Shri Bhavesh Bhatt is legal and justified? If not, what relief the workmen entitled to?”

1. The reference dates back to 28.01.2013. Both the parties were served by registered post. Despite service on both the parties, none appeared for the first party, The Divisional Railway Manager (E), Western Railway, Divisional Office, Ahmedabad. Today on 05.08.2016, Shri R.S. Sisodia, The President, Paschim Railway Karmachari Parishad representing the second party has expressed his unwillingness to prosecute the case.
2. Thus the reference is dismissed as not pressed by the second party.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 515.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 04/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/94/2013-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway, and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/94/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 07th October, 2016

Reference: (CGITA) No. 04/2014

The Divisional Railway Manager(E),
Western Railway, Divisional Office,
Kothi Compound,
Rajkot (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
'Shiv Om', 2/9, Junction Plot,
Rajkot (Gujarat) – 360001

...Second Party

For the First Party : None
For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/94/2013-IR(B-I) dated 11.12.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the demand of Union, Paschim Railway Karmachari Parishad asking for the facilities in the rest rooms for ticket checking staff at various stations in Rajkot Division of Western Railway in the light of Railway Boards letter dated 14.07.1998 is justified? If so, what relief, the ticket checking staff are entitled to?”

1. The reference dates back to 11.12.2013. Both the parties were served but neither of the parties submitted their statement of claim or written statement, as the case may be. The second party, The Secretary, Paschim Railway Karmachari Parishad, Shri R.S. Sisodiya today on 07.10.2016 expressed unwillingness to proceed in the case and requested to withdraw from the reference.
2. Thus the reference is disposed of as not pressed.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 516.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 136/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/40/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 136/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway, and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/40/2013-IR (B-I)]
B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 4th August, 2016

Reference: (CGITA) No. 136/2013

1. The General Manager,
Western Railway, Churchgate,
Mumbai – 400020
2. The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat) ...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
28-B, Narayan Park, Behind Chandkheda Railway Station,
Sabarmati, Ahmedabad (Gujarat) ... Second Party

For the First Party : None
For the Second Party : Shri R.S. Sisodia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/40/2013-IR (B-I) dated 15.07.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the demand of the Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, W.R. Ahmedabad to grant MACP, Pension refix and arrear of less pension to Shri Ishwarsingh K. Jadav is legal, fair and justified? If so, then to what relief the above workman is entitled to.”

1. The reference dates back to 15.07.2013. Both the parties were served by registered notices to appear on 27.12.2013. Responding to the notice, today on 04.08.2016, the second party advocate Shri R.S. Sisodia, Divisional Secretary, Paschim Railway Karmachari Parishad requested the tribunal to withdraw the reference.
2. Hence, the reference is dismissed as withdrawn.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 517.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 25/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/07/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway, and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/07/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXUR

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 07th October 2016

Reference: (CGITA) No- 25/2014

1. The Sr. Divisional Electrical Engineer,
Western Railway, Asarwa,
Ahmedabad (Gujarat)
2. The Divisional Railway Manager,
Western Railway, Asarwa,
Ahmedabad (Gujarat)
3. The Divisional Railway Manager,
Western Railway, Ratlam ...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, B/h Chandkheda Railway Station,
Sabarmati, Ahmedabad (Gujarat) ... Second Party

For the First Party : None
For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/07/2014-IR (B-I) dated 25.02.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of DRM, Ratlam is not relieving Shri Mansingh S. despite his transfer order from Ratlam to Ahmedabad which was duly approved by General Manager and thereby ignoring release of benefits of promotion to him and extending the benefit of promotion to his juniors is just and proper? If not, then what relief he is entitled to?”

1. The reference dates back to 25.02.2014. Both the parties were served but neither of the parties submitted their statement of claim or written statement, as the case may be. The second party, The Secretary, Paschim Railway Karmachari Parishad, Shri R.S. Sisodiya today on 07.10.2016 expressed unwillingness to proceed in the case and requested to withdraw from the reference.
2. Thus the reference is disposed of as not pressed.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ.518.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 09/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/12/2007-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 09/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/12/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 7th October, 2016

Reference: (CGITA) No. 09/2014

The Chief Works Manager,
Loco Carriage & Wagon Workshop,
Western Railway, Freelandgunj,
Dahod (Gujarat)

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E-209, Sarvottamnagar, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : None

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/12/2007-IR(B-I) dated 16.01.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway in respect of Shri Devising for not considering him for change of trade in LRS as Fitter w.e.f. 09.08.2000 is legal and justified and reasonable? If not, what relief the workman is entitled to and from which date?”

1. The reference dates back to 16.01.2014. Both the parties were served but neither of the parties submitted their statement of claim or written statement, as the case may be. The second party, The Secretary, Paschim Railway

Karmachari Parishad, Shri R.S. Sisodiya today on 07.10.2016 expressed unwillingness to proceed in the case and requested to withdraw from the reference.

2. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 519.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 144/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/80/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 144/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/80/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 6th October, 2016

Reference: (CGITA) No. 144/2012

The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004 ...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
B/28, Narayan Park, Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat) – 382470 ...Second Party

For the First Party : Shri Rajesh Singh

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/80/2012-IR(B-I) dated 24.09.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the action of management of Western Railway, Baroda in not taking Shri Mukesh Chand Meena in Railway Service in other category is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 24.09.2012. The second party submitted the statement of claim Ext. 3 on 13.12.2013. First party submitted the vakalatpatra Ext. 6 on 06.10.2016. The second party represented by The President, Paschim Railway Karmachari Parishad, Shri R.S. Sisodiya today on 06.10.2016 expressed in writing unwillingness to prosecute the case.

2. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 520.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 63/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/25/2004-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O.520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/25/2004-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 7th October, 2016

Reference: (CGITA) No. 63/2005

The Divisional Railway Manager,
Western Railway, Kalupur,
Ahmedabad (Gujarat) ...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Sarvottam Nagar, Nr. New Railway Colony, Sabaramati,
Ahmedabad (Gujarat) – 380019 ...Second Party

For the First Party : Shri V.T. Achraya

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/25/2004-IR(B-I) dated 04.07.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the action of the management of Western Railway, Ahmedabad Division for non-fixation of salary/non-payment of arrears to Shri Kalidas D. as per recommendations of 5th pay commission is justified and legal? If not, what relief the workman is entitled to?”

1. The reference dates back to 04.07.2005. Both the parties were served but neither of the parties submitted their statement of claim or written statement, as the case may be. The second party, The Secretary, Paschim Railway Karmachari Parishad, Shri R.S. Sisodiya today on 07.10.2016 expressed unwillingness to proceed in the case and requested to withdraw from the reference.

2. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 521.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 143/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/81/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 143/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/81/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 21st October, 2016

Reference: (CGITA) No. 143/2012

1. The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda (Gujarat)
2. The Sr. Divisional Electrical Engineer (Power),
Western Railway,
Pratapnagar,
Baroda (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda (Gujarat)

...Second Party

For the First Party :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/81/2012-IR(B-I) dated 21.09.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Union, Paschim Railway Karmachari Parishad for payment of Transfer Allowance and 10 days joining time, arrears of fixation for the period for the period from 01.12.2006 to 24.07.2007, City Allowance of Godhra City for the period from 18.07.2001 to 23.05.2007 and arrears of Grade – I promotion from December, 2001 to 23.05.2007 to Shri Badiyabhai S. Parmar is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 21.09.2012. Neither of the parties have filed their statement of claim or written statement as the case may be. The Divisional Secretary, Paschim Railway Karmachari Parishad, today on 21.10.2016 has not pressed the reference and has also requested to withdraw from the reference.

2. Thus the reference is decided as not pressed and withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 522.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 133/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/59/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 522.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 133/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/59/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 21st October, 2016

Reference: (CGITA) No. 133/2012

1. The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda (Gujarat)
2. The Chief Medical Officer,
Western Railway,
Pratapnagar,
Baroda (Gujarat)

...First Party

V/s

The Divisional Secretary,
 Paschim Railway Karmachari Parishad,
 Shastri Pole, Kothi,
 Baroda (Gujarat)

...Second Party

For the First Party :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/59/2012-IR(B-I) dated 10.09.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway in medically de-categorizing Shri Mathur M. Baria instead of treating him medically unfit is legal and justified? To what relief the concerned workman is entitled?

1. The reference dates back to 10.09.2012. Neither of the parties have filed their statement of claim or written statement as the case may be. The Divisional Secretary, Paschim Railway Karmachari Parishad, today on 21.10.2016 has not pressed the reference and has also requested to withdraw from the reference.

2. Thus the reference is decided as not pressed and withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 523.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 93/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-12012/89/2011-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 523.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 22.02.2017.

[No. L-12012/89/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT-cum-Labour Court,
 Ahmedabad,
 Dated 5th August, 2016

Reference: (CGITA) No. 93/2011

1. The Regional Manager,
 State Bank of India,
 Sardar Bag Road, Rajkot (Gujarat)

2. The Manager,
State Bank of Saurashtra (now SBI),
Udhyognagar Branch,
Porbandar (Gujarat)First Party

V/s

Shri Pravin Harjivanbhai Bhatt,
Narsang Tekri, B/h Grass Godown,
Porbandar (Gujarat) ...Second Party

For the First Party : Shri B.B. Gogia

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/89/2011-IR (B-I) dated 30.11.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the action of the management of State Bank of India, Porbandar Branch in terminating the services of Shri Pravin Harjivanbhai Bhatt, w.e.f. 16.08.2005, is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 30.11.2011. Both the parties were served by registered post. The acknowledgement of service of notice to second party Ext. 4 is received. Advocate for the first party Shri B.B. Gogia filed his vakalatpatra Ext. 5 on 06.01.2012 but the second party did not prefer to file the statement of claim despite service on 09.05.2012 by registered post. Thus it appears that the second party has no inclination to prosecute the case. Therefore the tribunal has no option but to dismiss the case in default of the second party.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 524.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 105/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/89/2007-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 524.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-42012/89/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 21st October, 2016

Reference: (CGITA) No. 105/2007

1. The Chief Works Manager (EW),
Western Railway, Engineering Workshop,
Sabarmati,
Ahmedabad (Gujarat)
2. The Chief Engineer (Workshop),
Western Railway, Head Quarter Office,
Churchgate,
Mumbai – 400020

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottamnagar, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri N.J. Acharya
For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/89/2007-IR(B-I) dated 12.10.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Paschim Railway Karmachari Parishad, Ahmedabad for cancellation of suitability test for the post of MCF Crane Driver conducted on 31.07.2006 violating the instructions of Railway Board, and declaring the result on 04.08.2006 by the Chief Works Manager (EW), Western Railway, Sabarmati, Ahmedabad is proper and justified? If so, what directions are necessary in the matter?”

1. The reference dates back to 12.10.2007. Neither of the parties have filed their statement of claim or written statement as the case may be. The Divisional Secretary, Paschim Railway Karmachari Parishad, today on 21.10.2016 has not pressed the reference and has also requested to withdraw from the reference.

2. Thus the reference is decided as not pressed and withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ.525.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 103/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/08/2007-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O.525.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/08/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th October, 2016

Reference: (CGITA) No. 103/2007

1. The Chief Works Manager (EW),
Western Railway, Engineering Workshop,
Sabarmati, Ahmedabad (Gujarat)
2. The Chief Engineer (Workshop),
Western Railway, Head Quarter Office,
Churchgate, Mumbai – 400020
3. The Sr. Divisional Electrical Engineer,
Western Railway, O/o DRM, Divisional Office,
Kalupur, Ahmedabad (Gujarat) ...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar, Sabarmati,
Ahmedabad (Gujarat) ...Second Party

For the First Party : :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/08/2007-IR(B-I) dated 09.10.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the demand of the Paschim Railway Karmachari Parishad, Ahmedabad for promotion of Shri Umed Sinh L., Jr. Engineer II working in Track Material Supply of Engineering Workshop, Sabarmati as ‘Jr. Engineer – I’ after completion of two years i.e. w.e.f. 01.11.2005 by Chief Works Manager, Engineering Workshop, Western Railway, Sabarmati, Ahmedabad is legal and justified? If so, what directions are necessary in the matter?”

1. The reference dates back to 09.10.2007. The second party did not prefer to submit his statement of claim till date and today on 14.10.2016, Shri R.S. Sisodiya, General Secretary, Paschim Railway Karmachari Parishad, expressed unwillingness to prosecute the case and requested to withdraw the references.
2. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 526.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चाम रेलवे के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 147/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/42/2008-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 526 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 147/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/42/2008-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 7th October, 2016

Reference: (CGITA) No. 147/2010

The Divisional Railway Manager,
Western Railway, DRM Office, Pratap Nagar,
Baroda (Gujarat) ...First Party

V/s

The President,
Saurashtra Employees Union,
City Shops, 3rd Floor, Opp. Jagnath Police Chowki,
Dr. Yagnik Road,
Rajkot (Gujarat) ...Second Party

For the First Party : Smt. Sonal Patel

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/42/2008-IR(B-I) dated 11.06.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the action of Divisional Railway Manager, Western Railway, Vadodara imposing penalty of not providing actual post and “reduction to lower stage in time scale, at present he is working for three years, without future effect and without affecting the pensionary benefits” to Shri Dawhood Habib Gangman C.P.W.I., Maliya Miyana, is legal and justified? To what relief is the workman concerned entitled?”

1. The reference dates back to 11.06.2009. Both the parties were served but neither of the parties submitted their statement of claim or written statement, as the case may be. The second party, The Secretary, Paschim Railway Karmachari Parishad, Shri R.S. Sisodiya today on 07.10.2016 expressed unwillingness to proceed in the case and requested to withdraw from the reference.

2. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 527.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण

एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 712/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/99/2000-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 527 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 712/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41012/99/2000-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 4th August, 2016

Reference: (CGITA) No. 712/2004

1. The General Manager,
Western Railway, Churchgate,
Mumbai – 400001
2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda – 390004

V/s

For the First Party : Smt. K.J. Parikh
For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/99/2000-IR (B-I) dated 29.08.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union, Paschim Railway Karmachari Parishad, Baroda for regularization and absorption of Shri Gulab Saiba in Class III category in the scale of Rs.3050-4590 instead of Class IV category (scale Rs.2550-3200) and protection of pay while regularizing the services in Class III category/Class IV category, is proper and justified? If so, to what relief the concerned workman Shri Gulab Saiba Khallasi is entitled?”

1. The reference dates back to 29.08.2000. The second party submitted the statement of claim Ext. 5 on 29.12.2000 along with the vakalatpatra Ext. 4. First party submitted the written statement Ext. 12 on 11.10.2004. Since then the parties have not been responding and did not lead the evidence. Therefore, on 29.02.2012 fresh notices were issued to

both the parties. Responding to the notices, today on 04.08.2016, the second party advocate Shri J.K. Ved requested the tribunal to withdraw the reference.

2. Hence, the reference is dismissed as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 528.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 795/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/145/2002-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O.528 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 795/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41012/145/2002-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 4th August, 2016

Reference: (CGITA) No. 795/2004

1. The General Manager,
Western Railway, Churchgate,
Mumbai – 400001
2. The Works Manager,
Western Railway, Pratapnagar,
Baroda – 390004

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda ...Second Party

For the First Party

For the Second Party : Shri R.S. Sisodia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/145/2002-IR (B-I) dated 16.01.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Western Railway, Baroda in not regularize the services of Shri Mohammed Asif F. Ad hoc Jr. Clerk in the post of Clerk is justified? If not, what relief the concerned workman Shri Mohammed Asif F. is entitled?”

1. The reference dates back to 16.01.2003. The second party submitted the statement of claim Ext. 3 on 10.11.2003. Since then the parties have not been responding. Therefore, fresh notices were issued to both the parties to appear on 28.04.2011. Responding to the notice, today on 04.08.2016, the second party advocate Shri R.S. Sisodia, Divisional Secretary, Paschim Railway Karmachari Parishad requested the tribunal to withdraw the reference.

2. Hence, the reference is dismissed as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 529.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 04/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/33/2007-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 529.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/33/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 21st October, 2016

Reference: (CGITA) No. 04/2008

1. The Divisional Railway Manager,
Western Railway, Kalupur,
Ahmedabad (Gujarat)
2. The CWS,
CDO Office, Western Railway,
Gomtipur,
Ahmedabad (Gujarat) ...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottamnagar, Sabarmati,

Ahmedabad (Gujarat)

...Second Party

For the First Party : Smt. Sonal M. Patel

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/33/2007-IR(B-I) dated 07.01.2008 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway, Ahmedabad imposing penalty as reduction of two stoppage of time scale for three years upon Shri Lala Mohan, Gitter Gr. II and stoppage of increment for two years without cumulative effect upon Shri Lorence, Fitter Gr.III is legal, proper and just? If not, to what relief the concerned workmen are entitled to?”

1. The reference dates back to 07.01.2008. Neither of the parties have filed their statement of claim or written statement as the case may be. The Divisional Secretary, Paschim Railway Karmachari Parishad, today on 21.10.2016 has not pressed the reference and has also requested to withdraw from the reference.
2. Thus the reference is decided as not pressed and withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 530.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 08/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/96/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 530.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/96/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 5th August, 2016

Reference: (CGITA) No. 08/2012

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat)

2. The Sr. Divisional Engineer (TRD),
 Western Railway, Pratapnagar,
 Baroda (Guajrat) ...First Party

V/s

The Divisional Secretary,
 Paschim Railway Karmachari Parishad,
 Shastri Pole, Kothi,
 Baroda (Gujarat) ...Second Party

For the First Party : Shri Rakesh Sharma

For the Second Party : Shri R.S. Sisodia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/96/2011-IR (B-I) dated 04.01.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the demand of the Union for promotion of Shri Jagdish P. Bhatt for the Post of Material Chaser Grade –II is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 04.01.2012. Both the parties were served by registered post. First party submitted the vakalatpatra Ext. 5 of his advocate Shri Rakesh Sharma on 07.04.2016. Today on 05.08.2016, Shri R.S. Sisodia, The President, Paschim Railway Karmachari Parishad representing the second party has expressed his unwillingness to prosecute the case.

2. Thus the reference is dismissed as not pressed by the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 531.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 22/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/81/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 531.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/81/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT-cum-Labour Court,
 Ahmedabad,
 Dated 5th August, 2016

Reference: (CGITA) No. 22/2012

1. The General Manager,
Western Railway, Churchgate, Mumbai
2. The Assistant Divisional Electrical Engineer,
Western Railway, Kothi Compound,
Rajkot (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, B/h Chandkheda Railway Station,
Sabarmati, Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri H.B. Shah
For the Second Party : Shri R.S. Sisodia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/81/2011-IR (B-I) dated 30.12.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of the Western Railway, Mumbai and Division Officer, Rajkot in not declaring the office bearers of the Union, Paschim Railway Karmachari Parishad, Rajkot (Register Trade Union) as protected workman violating the provision of the Industrial Disputes Act, 1947 read with Central Rules and transferring their office bearers, Shri Kamlesh P. Trivedi without following the norms of transfer is justified? To what relief the workman is entitled?”

1. The reference dates back to 30.12.2011. Both the parties were served by registered post. First party submitted the vakalatpatra Ext. 5 of his advocate Shri H.B. Shah on 07.04.2016. Today on 05.08.2016, Shri R.S. Sisodia, The President, Paschim Railway Karmachari Parishad representing the second party has expressed his unwillingness to prosecute the case.
2. Thus the reference is dismissed as not pressed by the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 532.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 12/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 का प्राप्त हुआ था।

[सं. एल-12011/33/2007-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 532.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 22.02.2017.

[No. L-12011/33/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 19th December, 2016

Reference: (CGITA) No. 12/2008

The Chief General Manager,
State Bank of India, Local Head Office,
Post Box No. 300,
Ahmedabad (Gujarat) – 380001

...First Party

V/s

The General Secretary,
State Bank of India Employees Union,
Ahmedabad Circle, 3rd Floor,
State Bank Building, P.B. No. 105,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party :
For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/33/2007-IR(B-I) dated 22.02.2008 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of State Bank of India Employees Union, Ahmedabad Circle for reinstatement of S/Shri M.B. Parmar, V.B. Jethwa, Dilip Parek, H.S. Mawaani and S.M. Nankani, who were awarded punishment of dismissal and compulsory retirement, with retrospective effect with full back and all consequential benefits by the management of SBI, Local Head Office, is justified or not? If so, what relief the workmen are entitled to?”

1. The reference dates back to 22.02.2008. The second party State Bank of India Employees Union, submitted the statement of claim Ext. 5 on 03.09.2009 and the first party State Bank of India submitted the written statement Ext. 11 on 15.09.2011. Since then the second party has been absent and has also not lead his evidence. Thus, it appears that the second party is not willing to prosecute the case.

2. Thus the reference is disposed of in the absence of the second party evidence with the observation as under: “the demand of State Bank of India Employees Union, Ahmedabad Circle for reinstatement of S/Shri M.B. Parmar, V.B. Jethwa, Dilip Parek, H.S. Mawaani and S.M. Nankani, who were awarded punishment of dismissal and compulsory retirement, with retrospective effect with full back and all consequential benefits by the management of SBI, Local Head Office, is not justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 533 .—ऑटोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑटोगिक विवाद में केन्द्रीय सरकार आटोगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 41/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/97/95-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 533.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2004) of the Central Government Industrial Tribunal-cum-

Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41012/97/95-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 3rd August, 2016

Reference : (CGITA) No. 41/2004

The Divisional Railway Manager,
Western Railway, Kothi Compound,
Rajkot – 360001

...First Party

V/s

The Mandal Secretary,
Paschim Railway Karmachari Parishad,
209, E. Sarvottam Nagar, Near Railway Colony,
Sabarmati, Ahmedabad – 380001

...Second Party

For the First Party : Shri H.B. Shah

For the Second Party : Shri R.S. Sisodia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/97/95-IR (B-I) dated 02.08.1996 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of D.R.M., Western Railway, Rajkot in imposing a penalty of withholding increments with future effect on Shri Kesaji S. is legal and justified? If not to what relief is the workman entitled?”

1. The reference dates back to 02.08.1996. The second party submitted the statement of claim Ext. 3 on 13.09.1996 along with the documents. The first party Western Railway, Rajkot submitted the written statement Ext. 10 on 08.06.1999 along with vakalatpatra Ext. 8 of his advocate and also filed documents. On 18.05.2010 Advocate Janak R. Pandya submitted the vakalatpra Ext. 22 on behalf of the first party.
2. Since then the second party has not been appearing to lead appearance, therefore, fresh notices vide Notice No. CGITA/Notice/1823/2011 was issued to the second party workman to appear on 21.04.2011 for leading evidence but to no result. Since then the second party has not been appearing to lead evidence. Therefore this tribunal has no option but to dismiss the reference in default of the second party.
3. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 534.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 60/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/27/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 534.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41011/27/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 5th August, 2016

Reference : (CGITA) No. 60/2011

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Vadodara (Gujarat)
2. The Sr. Divisional Electrical Engineer (TRS),
Electric Loco Shed, Western Railway,
Baroda – 390004
3. The Sr. Divisional Electrical Engineer (TRO),
Western Railway, Pratapnagar,
Baroda – 390004

V/s

For the First Party : Smt. Sonal Patel
For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/27/2011-IR (B-I) dated 28.07.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the Union, Paschim Railway Karmachari Parishad, Baroda for relieving S/Sh. (1) Suresh S. Meckwan, (2) Rajendra A. Patel, (3) Harishankar J. Gupta, (4) G. Thomas, (5) Mohammed I. Shaikh, (6) Rajesh Amar Singh, (7) H.N. Hardayal, (8) Dahya Bhailal, (9) Ganpat S. Tadvi, (10) Sunil M., (11) Kirit N. Patel, (12) Prakash Chandra Maurya, (13) R.L. Bamaniya, (14) Mohammed Iqbal and (15) Mahendra Chitra to join at Memo Shed or TRS Shed in accordance with the posting order dated 02.09.2005, is legal and justified? To what relief the Union is entitled?"

1. The reference dates back to 28.07.2011. Both the parties were served by registered post. First party submitted the vakalatpatra Ext. 3 of his advocate Smt. Sonal Patel on 03.02.2012. On 07.04.2016, R.S. Sisodia, Divisional Secretary, Paschim Railway Karmachari Parishad moved an application Ext. 4 for seeking time to submit statement of claim. Today on 05.08.2016, Shri R.S. Sisodia, The President, Paschim Railway Karmachari Parishad representing the second party has expressed his unwillingness to prosecute the case.
2. Thus the reference is dismissed as not pressed by the second party.

B. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 535.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 78/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/56/2008-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 535 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41012/56/2008-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 5th August, 2016

Reference : (CGITA) No. 78/2010

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat)
2. The Sr. Divisional Electrical Engineer (N),
Western Railway,
Nadiad (Gujarat) ...First Party

V/s

Smt. Jakuben W/o Late Sh. Laxman Soma,
G/man, under CPWI, MHO,
Vill. Gadava, PO – New Gothaj,
Ta. Mahemdabad, Distt. Khoda (Gujarat) ...Second Party

For the First Party : Shri H.B. Shah
For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/56/2008-IR (B-I) dated 05.03.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Smt. Jakuben, widow of Late ShriLaxman Soma bakor, Gangman for sanction of compassionate allowance to her in terms of rule 65 of the Railway Services(Pension) Rules, 1993, is just, fair and valid? If yes, what relief she is entitled and from which date?”

1. The reference dates back to 05.03.2009. Second party submitted the statement of claim Ext. 3 on 24.03.2011. Shri H.B. Shah Advocate for the first party submitted his vakalatpatra Ext. 13 on 24.03.2011. Since then, the first party has not submitted the written statement. On 08.12.2015, a fresh notice was sent to the second party to appear so may that case may proceed ex parte against the first party. The notice was sent to him by registered post on 07.03.2016. After sending notice the case was taken up on 01.04.2016 but the second party did not appear. Today on 05.08.2016, again the second party did not appear. Thus it appears the second party has no inclination to prosecute the case.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2017

का.आ. 536.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 102/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/38/2005-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 22nd February, 2017

S.O. 536 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 102/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 22.02.2017.

[No. L-41012/38/2005-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 9th August, 2016

Reference : (CGITA) No. 102/2005

1. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) - 390004
2. The Sr. Divisional Electrical Engineer (TRO),
Western Railway, Pratapnagar,
Vadodara (Guajrat)
3. The Sr. DEE (TRS),
Western Railway, Electrical Locoshed, Navayard,
Baroda – 390002 ...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda (Gujarat) – 390001 ...Second Party

For the First Party : Shri Rajesh Singh
For the Second Party : Shri Mahesh S. Trivedi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/38/2005-IR (B-I) dated 27.10.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the demand of the Union for granting the officiating allowance to Shri Ramjibhai M. Parmar w.e.f. 29.04.1995 to 29.09.2004 and to give promotion to him in the scale of 7450-11500 as SSE on the date from which he is entitled for promotion against the roster point is legal, proper and justified? If not, to what relief the concerned workman Sh. Ramjibhai M. Parmar is entitled to and from which date?”

1. The reference dates back to 27.10.2005. Both the parties were served by registered notice and also being informed by the Central Government. The General Secretary Ragveer Singh Sisodia, Paschim Railway Karmachari Parishad on behalf of the second party workman Ramjibhai M. Parmar submitted the statement of claim Ext. 4 wherein it has been alleged that the workman Ramjibhai M. Parmar was the permanent employee of the Western Railway who was posted as Section Engineer as on 29.04.1995 in the T I Shed and his pay scale was 6500 to 10500. He took over charge from one R. G. Dhantra, CTFO who was promoted on 01.01.1993 and was posted as CTFO/T I Shed. The post of CTFO/T I Shed BRCY became a sanctioned post with a result of restructuring on 01.03.1993 and same was not downgraded when the workman took over the charge of the aforesaid post. It is also alleged that there was a sanctioned post of senior section engineer in the pay scale of 7450-11500 of which workman took over the charge. He further alleged that the head quarter office address no. E/E1/830/7(TRS) dated 03.07.1993 indicated that the post of Senior Section Engineer was a sanctioned post of which the workman took over the charge therefore he is entitled for the said grade and pay scale and also entitled for the pay and difference in the allowances. He has further alleged that he belongs to the category of schedule caste and entitled for all the benefits. As per the Railway Rules and Roster Points, one post was reserved for schedule caste candidates for every eighth post. There were 24 posts of Senior Section Engineer from 19.04.1995 to 20.04.2004 while schedule caste was promoted only for one post. Thus the first party has violated the roster and Railway Rules regarding promotion. Thus he has prayed for the pay in the scale of 7450-11500 from 29.04.1995 to 20.09.2004 with 18% interest per annum along with his promotion in the scale of 7450-11500 as Senior Section Engineer on the date from which he is entitled as per the roster points.

2. The first party submitted the written statement Ext. 12 denied all the pleadings of the second party and submitted that the second party statement of claim is barred by delay, latches, non-joinder and mis-joinder of necessary party. It is further submitted that the statement of claim is barred by limitation, supressio very and sussgessio falsy and also lack of jurisdiction of the tribunal.

3. On the basis of the pleadings, following issues are framed for the just decision of the reference:

- (i) “Whether the demand of the Union for granting the officiating allowance to Shri Ramjibhai M. Parmar w.e.f. 29.04.1995 to 29.09.2004 and to give promotion to him in the scale of 7450-11500 as SSE on the date from which he is entitled for promotion against the roster point is legal, proper and justified?
- (ii) Whether this tribunal has jurisdiction to decide this matter?
- (iii) To what relief, if any, the concerned workman Sh. Ramjibhai M. Parmar is entitled to and from which date?”

4. In support of the pleadings, the second party submitted the affidavit/examination in chief Ext. 14 along with 15 documents vide list Ext. 15 and one more document vide list Ext. 17.

5. First party in support of pleadings examined Ravinder B. Sali and did not submit any documents.

Findings

6. Issue No. 1 & 2: Both these issues are to be taken up together as the moot questions arises in the matter as to whether this tribunal has jurisdiction to decide this reference and the prayer sought in the statement of claim Ext. 4. The burden to prove this issue was lying on second party. Second party examined the workman Ramjibhai M. Parmar by submitting the affidavit/examination in chief Ext. 13 reiterating the pleadings given in the statement of claim Ext. 4. The cross examination of the workman by the first party advocate has not extracted any things contrary to his affidavit. The management witness Ravinder B. Sali in his oral examination Ext. 18 has not said anything contrary to the statement and pleadings of the workman. The pleadings and evidences of both the parties are devoid of merit because the first

party has not emphasized as to why this tribunal has no jurisdiction in the matter but I would like to reproduce the provisions of section 2(S) of the Industrial Disputes Act, 1947 which is reproduced as under:

“Workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person -

- (i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) Who is employed in the police service or as an officer or other employee of a person; or
- (iii) Who is employed mainly in a managerial or administrative capacity; or
- (iv) Who, being employed in a supervisory capacity, draws wages exceeding (ten thousand rupees) per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

It is true that whatever the second party workman has claimed in the statement of claim Ext. 4 by way of prayers therein has not been specifically rebutted by the first party in his oral or documentary evidence but during the course of oral arguments, learned counsel for the parties have not denied that the workman was not holding the supervisory post as well as was also not drawing the emoluments more than Rs.10000 per month. The Para 2 of the statement of claim Ext 4 clearly indicates that he was drawing the salary in the pay scale of 6500-10500 at the time of alleged industrial dispute arose that is on 27.10.2005 when the reference was referred to this tribunal. Here I would like to emphasize that on 27.10.2005 the dearness allowance of the Central Government Employees was more than 100% and as per the fifth pay commission, the salary of the workman, if we assume that the workman was drawing Rs.6500 as the lowest of the pay scale of 6500 to 10500 even then the workman would have been drawing more than Rs.13000 per month. Thus as per the provisions of Section 2(S) the workman was not only holding the supervisory post but was also drawing Rs.13000 which is more than Rs.10000 per month. Thus the provisions of the industrial dispute act do not apply in the present case. Thus both these issues are decided against the workman and this tribunal has no jurisdiction to entertain the claim of the second party workman.

Issue No. 3: In the light of the aforesaid findings given on the Issue No. 1 & 2, workman is not entitled to any relief.

7. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 537.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 29/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/82/2008-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 537.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/82/2008-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**Present :**

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT-cum-Labour Court,
 Ahmedabad,
 Dated 21st October, 2016

Reference : (CGITA) No. 29/2010

The Divisional Railway Manager,
 Western Railway,
 DRM Office, Near Railway Station,
 Ahmedabad (Gujarat)

...First Party

V/s

The General Secretary,
 Western Railway Kamdar Sangh,
 78/9-C, National Highway,
 Gandhidham (Kutch)

...Second Party

For the First Party : Shri N.J. Acharya

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/82/2008-IR(B-I) dated 25.06.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEME

“Whether the action of the management of DRM(E), Western Railway, Ahmedabad in not counting the day of salary as duty, the period of treatment in Hospitals, leave and not paying workman compensation to Shri Rama Swamy Muthu, Keyman under CPWI, Maliya B. Unit, is justified? If not, to what relief the workman concerned is entitled to?”

1. The reference dates back to 25.06.2009. Since 15.06.2012, neither of the parties have parties their written statement or statement of claim as the case may be despite putting their appearance in the court on 15.06.2012. Thus it appears that both the parties are not willing to prosecute the case.
2. Thus the reference is decided as the action of the management of DRM(E), Western Railway, Ahmedabad in not counting the day of salary as duty, the period of treatment in Hospitals, leave and not paying workman compensation to Shri Rama Swamy Muthu, Keyman under CPWI, Maliya B. Unit, is justified in non-prosecution of the case by the second party.
3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 538.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 94/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/125/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 538.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/125/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 21st October, 2016

Reference : (CGITA) No. 94/2013

The Divisional Railway Manager,
Western Railway,
Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)

...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
B/28, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati, Ahmedabad (Gujarat)

...Second Party

For the First Party : :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/125/2012-IR(B-I) dated 09.05.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the action of the management for not grant of MACP & annual increment to Shri Rajkumar Keswani, ECRC, ADI and not giving the salary & others service benefits to Shri Mohammad Khan during the period of 03.06.2011 to 06.03.2012 is legal and justified? If not, what relief the workmen are entitled to?”

1. The reference dates back to 09.05.2013. The second party filed statement of claim Ext. 3. The Divisional Secreatary, Paschim Railway Karmachari Parishad, today on 21.10.2016 has not pressed the reference and has also requested to withdraw from the reference.
2. Thus the reference is decided as not pressed and withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 539.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 201/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/93/2013-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 539.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 201/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/93/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 7th October, 2016

Reference : (CGITA) No. 201/2013

The Divisional Railway Manager (E),
Western Railway, Divisional Office, Kothi Compound,
Rajkot (Gujarat) ...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
'Shiv Om', 2/9, Junction Plot,
Rajkot (Gujarat) ...Second Party

For the First Party :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/93/2013-IR(B-I) dated 28.11.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of Divisional Railway Manager(E), Western Railway, Rajkot in awarding the punishment treating Shri Kishorsinh M. RRB as cook although he is a Running Room Bearer is justified? To what relief, he is entitled?”

1. The reference dates back to 28.11.2013. Both the parties were served but neither of the parties submitted their statement of claim or written statement, as the case may be. The second party, The Secretary, Paschim Railway Karmachari Parishad, Shri R.S. Sisodiya today on 07.10.2016 expressed unwillingness to proceed in the case and requested to withdraw from the reference.
2. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 540.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 153/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/187/2005-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 540.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 153/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41012/187/2005-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 22nd September, 2016

Reference : (CGITA) No. 153/2006

The Chief Works Manager,
Western Railway, Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E-209, Sarvottamnagar, Sabarmati,
Ahmedabad (Gujarat)

...Second party

For the First Party : None

For the Second Party : Shri B.K. Sharma

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/187/2005-IR(B-I) dated 20.07.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the action of the management of Chief Works Manager, Western Railway, Sabarmati, Ahmedabad by discriminating in promotional matter in case of Shri J.C. Vaghela, Office Superintendent Grade-I with effect from 27.07.1999 instead of 01.06.1996 is legal and justified? If not, what relief the workman is entitled and from which date?”

1. The reference dates back to 20.07.2006. Both the parties were served by registered post. The second party was served on 23.03.2007. Shri R.S. Sisodia, General Secretary, Paschim Railway Karmachari Parishad authorised Shri B.K. Sharma to conduct the case. Said authority letter Ext. 8 was filed on the same date. Again he filed the authority letter of Shri B.K. Sharma Ext. 10 on 30.02.2010 and submitted the statement of claim Ext. 11. First party has not filed the written statement despite giving number of opportunities. Today, Shri B.K. Sharma himself is present and said that he does not want to press the case and same may be disposed of as not pressed. Thus the reference is disposed of as not pressed.
2. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 541.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण

एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 141/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/160/2005-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 541.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 141/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41012/160/2005-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 16th September, 2016

Reference : (CGITA) No. 141/2006

The Divisional Railway Manager,
Western Railway,
Ahmedabad

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
Near Vishwakarma Temple, Jawahar Chowk,
Sabarmati, Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri M.M. Solanki

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/160/2005-IR(B-I) dated 28.06.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the action of the management of DRM, Western Railway, Ahmedabad by not fixing the salary of Shri Jaisingh Bheru Singh, Senior Khallasi in accordance with the 5th Pay Commission and also by not giving arrears etc. is legal and justified? If not, what relief the workman is entitled to and to what extent?”

1. The reference dates back to 28.06.2006. The advocate of the second party has submitted in written that he does not want to prosecute the case.
2. Thus the reference is decided as withdrawn. Thus the action taken by the first party is legal and justified.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 542.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 796/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/110/2002-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 542.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 796/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41012/110/2002-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 16th September, 2016

Reference : (CGITA) No. 796/2004

1. The General Manager,
Western Railway,
Mumbai - 400001
2. The Divisional Railway Manager,
Western Railway,
Pratapnagar, Baroda ...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda(Gujarat) – 390001 ...Second Party

For the First Party : Shri B.S. Mishra
For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/110/2002-IR(B-I) dated 29.01.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Parishad that the pay of Shri Ramlal M. be fixed in the scale of Rs. 4500-7000 instead of Rs. 4000-6000 by the management of Western Railway, Mumbai is proper and justified? If so, what relief the concerned workman is entitled to?”

1. The reference dates back to 29.01.2003. The advocate of the second party has submitted in written that he does not want to prosecute the case.
2. Thus the reference is decided as withdrawn and the action taken by the first party is legal and justified.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 543.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 45/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/94/2011-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 543.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/94/2011-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 30th January, 2017

Reference : (CGITA) No. 45/2012

The Dy. Chief Material Manager,
Western Railway, D Cabin,
Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri H.B. Shah

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/94/2011-IR(B-I) dated 09.02.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the demand of the union, Paschim Railway Karmachari Parishad for appointment of son of deceased workman Shri ChhaganBhanaVaghela on compassionate ground, is legal and justified? To what relief the union is entitled?”

1. The reference dates back to 09.02.2012. After receiving the reference from Ministry of Labour/ShramMantralaya, Government of India, notices were issued to the Deputy Chief Material Manager, Western Railway, hereinafter referred

to as first party and The President, Paschim Railway Karmachari Parishad, hereinafter referred to as second party union who raised the dispute before the Regional Labour Commissioner, Ahmedabad. Both the parties put in their appearance before the tribunal and submitted their response by way of statement of claim Ex. 4 and written statement Ex. 7.

2. The President, Paschim Railway Karmachari Parishad, in his statement of claim Ex. 4 alleges that the second party union is a registered trade union working under the establishment of the first party. The second party union served a chart of demand seeking compassionate appointment under deceased workmen ChhaganBhana which was not full filled, therefore, the dispute was raised against the first party before the Conciliation Officer cum Assistant Labour Commissioner. The first party appeared there and filed his reply but dispute could not be resolved, therefore, the Assistant Labour Commissioner submitted the failure report to the Government of India. Consequently Government of India submitted the aforesaid reference before the tribunal.

3. The second party union in his statement of claim Ex. 4 alleged that the workman ChhaganBhanaVaghela was working as Khalasi with the first party. He died on 20.02.2003 during the course of employment. His widow Koklaben submitted an application for appointment of her son ManharsinhChhaganVaghela on the compassionate ground. His has further alleged that the first party wrote a letter on 15.12.2009 to the conciliation officer that all the legal dues of the deceased workman have been paid to his widow Koklaben but refrained to give categorical reply regarding the appointment of the son of the deceased workman on the compassionated ground. Therefore, the second party union raised a chart of demand before the first party. It is further alleged that the first party wrote on 19.06.2007 to the widow of the deceased workman that he has not received any application from her regarding compassionate appointment to her son, therefore widow of the deceased workman Koklaben again submitted the application for appointment on compassionate ground but the same was rejected in the year 2010. Thereafter the second party union raised a chart of demand. It is further alleged that there is a practice and rule prevailing in the first party establishment that if a workman dies during the course of his employment than his legal heir may be considered for appointment on compassionate ground. In the present case, the deceased workman was a Khalasi on a permanent and vacant post and served the employer for more than 20 years. He died on 20.02.2003 due to long illness and one of the legal heir was to be considered and be appointed in lieu of the guidelines and circulars issued by the first party from time to time. Thus he has prayed for relief of appointment of the son of the deceased workman on compassionate ground and also any other relief as the tribunal deems fit. The statement of claim annexed with the number of documents vide list Ex. 6 concerning the correspondence and application for appointment on compassionate ground.

4. The first party in his written statement Ex. 7 submitted that there was no relationship of employer and workman between the first party and deceased workman. The deceased workman was an employer of General Manager, Western Railway. Therefore, it was not an Industrial Dispute with in the Industrial Disputes Act. The deceased workman was married with Amarben and customary divorce was not legally permissible. The demand of the second party union the appointment of his son on compassionate ground is totally untenable and illegal. The deceased workman during the lifetime of first wife, married Koklaben without getting the first marriage deserved, therefore, Koklaben and her children have no legal status and are not entitled to compassionate appointment. Thus the prayer made in the statement of claim is liable to be rejected. The written statement is enclosed with the number of documents including the succession certificate issued to Koklaben by the Ahmedabad City Civil Court.

5. On the basis of the pleadings of the parties, the following issues arises:

Issue No. i: Whether the demand of the union, Paschim Railway Karmachari Parishad for appointment of son of deceased workman Shri ChhaganBhanaVaghela on compassionate ground, is legal and justified?

Issue No. ii: To what relief, if any, the union is entitled?

6. The first party vide application Ex. 14 submitted the zerox copies of the service record of the second party workman on 05.09.2014.

7. The second party vide application Ex. 17 submitted the papers Ex. 18 to Ex. 22 and also submitted his affidavit/examination in chief Ex. 8.

8. **Issue No. i :** The burden of prove of this issue lies on the second party KoklabenChhanganbaiVaghela, the widow of the workman ChhanganbaiVaghela, who submitted his affidavit/examination in chief Ex. 8 reiterating the averments made in the statement of claim Ex. 4. In short, she stated that her husband ChhanganbaiVaghela had been working as Khalasi in the first party establishment as a permanent employee. He died on 20.02.2003; consequently she made an application for retirement benefits which all were granted to her. Thereafter, on 27.07.2007, she also moved an application of his son ManharsinhChhaganVaghela for appointment on compassionate ground in place of his father along with the no objection certificate of all other legal heirs eligible to be appointed on compassionate ground. But the said application was rejected ignoring the directives of the employer circular dated 27.01.1992 without any basis and

reasons. She was cross-examined by the first party employer but nothing came out from her cross-examination which may make her son in eligible for appointment on compassionate ground.

9. One, Ajay Arora, Chief Material Manager, Western Railway, Sabarmati was examined by way of submitting Ex. 11 wherein he admitted all the facts stated by the second party, denying the benefits on the ground that the dispute was raised very late. The second party was also having two other sons. He has also stated that the second party is the second wife of the deceased workman. Deceased workman married the second party Koklaben Chhanganbhai Vaghela without getting the first marriage dissolved. Therefore, the marriage with the second party was null and void and legal heir born out of the second marriage were having no legal right, therefore, the denial on compassionate ground was legal and justified. He has also stated that the second party KoklabenChhanganbhaiVaghela was granted all the retirement benefits on the basis of getting the succession certificate from the civil court in civil misc. case no. 302/2005. In his cross-examination, she admitted all the facts of the second party and has not stated anything adverse which may disentitle ManharsinhChhaganVaghela, the third son of deceased workman.

10. The documentary evidence submitted by the second party clearly indicates that ChhanganbhaiVaghela was Khalasi in the first party establishment who served the department for more than 20 years, died on 20.02.2003. In the service record as admitted and submitted by the first party, KoklabenChhanganbhaiVaghela was his legally wedded wife. Out of that wedlock, she and her three sons were his legal heirs and were enjoying all the facilities provided in the railway service.

11. The first party advocate submitted the written argument Ex. 24 simply narrating the story given in the statement of claim and written statement without disclosing as to why the appointment on compassionate ground was denied. The only argument was that the appointment on compassionate ground was within the jurisdiction of the General Manager of the Western Railway but he has not disclosed and has not submitted any evidence as to whether the record or proceedings for compassionate ground were forwarded to the General Manager Western Railway or not.

12. I considered the evidence and arguments of both the parties. The second party by way of her evidence has proved that she was legally wedded wife and ManharsinhChhaganVaghela was the son of the deceased workman ChhanganbhaiVaghela. The deceased workman was a poor employee of the railway; therefore, after his death his family was in living in hardness, therefore, his aforesaid son and whole family were in the dire need of employment and denial of employment to her son ManharsinhChhaganVaghela cannot said to be legal and just. The argument of the first party that the appointing authority and taking of decisions to appoint her son on compassionate ground under dying in harness rules vests in General Manager, Western Railway has no force because it was a duty of the controlling authority which in the present case was Dy. Chief Material Manager, Western Railway, D Cabin, Sabarmati, Ahmedabad to forward to the General Manager, Western Railway.

13. It is noteworthy that the documents submitted by both the parties reveal that the wife of deceased workman has been granted all the pension and death related benefits and the children born out of the said wed lock including the widow wife were provided all the benefits and enjoyment arising out of the railway service even then the employer first party raised such a unbelievable argument like she was not the legally wedded wife and children are illegitimate. By contesting the dispute by the first party, the conduct of the employer first party comes within the definition of harassment of the family of the loyal deceased employee and for such a misconduct, the officer whose conduct is seriously objectionable must be punished and he must be subjected to pay the cost of the harassment given to the family of the loyal employee.

14. Thus in the light of the aforesaid discussions, I come to the legal conclusion that the demand of the union, Paschim Railway Karmachari Parishad for appointment of son of deceased workman Shri ChhaganBhanaVaghela on compassionate ground, is legal and justified.

15. **Issue No. ii :** In the light of the findings given in the Issue No. I, the first party is directed to appoint ManharsinhChhaganVaghela, son of the deceased workmanChhanganbhaiVaghela on a post to which he is eligible and suitable within 30 days of the publication of the award.

16. As appears from the record that the applications was moved for appointment on compassionate ground under dying in harness rules sometimes earlier to 15.12.2009 but keeping the applications pending and thereafter rejecting without any legal basis and reason is the abuse of process of State Action which is violative of the principle of natural justice and legal right of the deceased workman family. Therefore, a lump sum amount of Rs. 100000/- ought also to be awarded to the family of the deceased workman. This amount of Rs. 100000/- may be recovered from the official who was guilty of the abuse of state action by the first party establishment.

17. The award is passed accordingly.

नई दिल्ली, 23 फरवरी, 2017

का.आ. 544.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 151/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/46/98-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 544.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 151/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41012/46/98-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 20th January, 2017

Reference : (CGITA) No. 151/2004

1. The General Manager,
Western Railway, Head Quarter Building,
Churchgate, Mumbai
2. The Chief Workshop Manager,
Western Railway, Frelandganj,
Dahod – 389160
3. The Chief Workshop Engineer,
Head Quarter Officer,
Mumbai – 400001

...First Party

V/s

Shri Jaswant P. Gohil (Bhil),
Khalasi C/o J.K. Ved,
Sinduri Mata Devasthan,
S.T. Nagar Road, P.O. Godhra,
Panchmahal (Gujarat)

...Second Party

For the First Party : Shri H.B. Shah
For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/46/98-IR(B-I) dated 12.01.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Railway Administration in removing Shri Jaswant P. Gohil (Bhil), Khalasi from the Railway service w.e.f. 27.05.1996 vide removal order No. E. 308/13470/JP (DAR) dated 27.05.1996 without holding an enquiry into alleged charges is legal and justified? If not to what relief the concern employee is entitled to?”

1. The reference dates back to 12.01.1999. Both the parties submitted their statement of claim Ex. 5 and written statement Ex. 17 along with number of documents. Since then the case has been pending for evidence but neither of the parties has lead evidence. Now today on 20.01.2017, Shri J.K. Ved, on behalf of the second party has expressed unwillingness to prosecute the reference and has also requested to withdraw the case.

2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 545.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 06/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/17/2004-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 545.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/17/2004-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 27th January, 2017

Reference : (CGITA) No. 06/2005

- 1. The General Manager,
Western Railway, Churchgate,
Mumbai
- 2. The Divisional Railway Manager,
Western Railway,
Baroda (Gujarat)First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar, Nr. New Railway Colony,
Sabarmati,
Ahmedabad (Gujarat) – 380019Second Party

For the First Party : Shri Jatin Vakil
 For the Second Party : Shri D.R. Patel

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/17/2004-IR(B-I) dated 20.12.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway, Mumbai and others in non-promoting the workman Shri Mahender C., Senior Khalasi and promoting other employees junior to him, and also not paying the benefits of retirement from service of Shri Annamalai, Gangman is legal, proper and justified? If yes, then to what relief the workmen are entitled?”

1. The reference dates back to 20.12.2004. The second party submitted the statement Ex. 10 on 08.04.2011 after submission the written statement Ex. 4 on 16.04.2009 by the first party. The case was fixed for evidence of the second party but today on behalf of the second party union The Divisional Secretary, Paschim Railway Karmachari Parishad, E/209, Sarvottam Nagar, Nr. New Railway Colony, Sabarmati, Ahmedabad, Shri R.S. Sisodiya stated that the second party does not want to prosecute the case.
2. Therefore, the reference is dismissed as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 546.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 234/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/21/99-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 546.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 234/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/21/99-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT-cum-Labour Court,
 Ahmedabad,
 Dated 20th January, 2017

Reference : (CGITA) No. 234/2004

1. The General Manager,
 Western Railway,
 Head Quarter Building,
 Churchgate, Mumbai

2. The Divisional Railway Manager,
 Western Railway,
 Pratapnagar,
 Baroda (Gujarat) – 390004
 ...First Party

V/s

The Divisional Secretary,
 Paschim Railway Karmachari Parishad,
 E/209, Sarvottam Nagar, Nr. New Railway Colony,
 Sabarmati,
 Ahmedabad (Gujarat) – 380019
 ...Second Party

For the First Party : Smt. Sonal M. Patel

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/21/99-IR(B-I) dated 22.11.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway through General Manager, Mumbai & others, in not distributing newly created 63 posts of Reservation Staff in commercial Branch in Baroda Division from 14.06.1993 in the ratio of 8:12:40:40 and not promoting the affected employees w.e.f. 14.06.1993 is legal, proper and justified? If not, to what relief the affected employees are entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 22.11.1999. The second party submitted the statement of claim Ex. 4 on 27.09.2000 and the first party submitted the written statement Ex. 6 on 05.04.2001 along with number of documents annexed with the written statement. Since then the case has been pending for evidence of the second party but the second party has failed to lead evidence. Thus it appears that the second party has not been willing to prosecute the case.
2. Therefore, the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the action of the management of Western Railway through General Manager, Mumbai & others, in not distributing newly created 63 posts of Reservation Staff in commercial Branch in Baroda Division from 14.06.1993 in the ratio of 8:12:40:40 and not promoting the affected employees w.e.f. 14.06.1993 is legal, proper and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 547.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 48/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/12/2015-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 547.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/12/2015-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 3rd February, 2017

Reference : (CGITA) No. 48/2015

1. The Asstt. Divisional Engineer (MG),
Western Railway,
Sabarmati,
Ahmedabad (Gujarat)
2. The Sr. Section Engineer (P. Way),
Western Railway,
Katosan Road Railway Station, Katosan Road,
Mehsana (Gujarat) ...First Party

V/s

The Addl. Divisional Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, B/h Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat) ...Second Party

For the First Party : :

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/12/2015-IR(B-I) dated 10.06.2015 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management, Asstt. Divisional Engineer (MG), Western Railway, Sabarmati, Ahmedabad to award penalty vide NIP dated 18.01.2013, which was duly revised vide order dated 03.07.2013 to withholding of increment whenever due for a period of one year without future effect against Shri Jivan Chandra Pandey, Gangman is legal, fair and justified? If not, so, then what relief the workman is entitled to?”

1. The reference dates back to 10.06.2015. After service of the notices to all the parties, the second party union, PRKP’s Divisional Secretary, R.S. Sisodiya moved an application Ex. 5 for withdrawing the reference. No further action is required at the level of tribunal. The Union does not want to proceed with the matter.
2. Therefore, the reference be dropped as not pressed. Thus, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 548.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 577/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-17012/11/2003-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 548.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 577/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Life Insurance of India and their workmen, received by the Central Government on 23.02.2017.

[No. L-17012/11/2003-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 2nd February, 2017

Reference : (CGITA) No. 577/2004

1. The Divisional Manager,
Life Insurance Corporation of India,
Jeevan Prakash, Tilak Road, P.B. No. 277,
Ahmedabd (Gujarat) – 380001
2. The Branch Manager,
Life Insurance Corporation of India,
83, Jaydeep Complex, N.H. No. 8, Nardoa,
Ahmedabad (Gujarat) – 382325 ...First Party

V/s

Shri Poonam B. Naya,
C/o Gujarat Mazdoor Union,
71, Patel Chambers,
National Highway, Bapunagar,
Ahmedabad (Gujarat) – 380024 ...Second Party

For the First Party : Shri K.V. Gadlia
For the Second Party : Shri GordhanPrajapati

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-17012/11/2003-IR(B-I) dated 30.10.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Life Insurance Corporation of India, Ahmedabad in terminating the services of Shri Poonam B. Naya w.e.f. 31.07.2000 orally without following the provisions of the I.D. Act is proper and justified? If not, what relief the concerned workman is entitled for and since when?”

1. The reference dates back to 30.10.2003. The second party submitted the statement of claim Ex. 4 on 01.07.2004 and the first party submitted the vakalatpatra Ex. 5 along with written statement Ex. 7 on 09.04.2004 and 18.07.2005 respectively. Since then the second party has been absent and has not been leading evidence. Therefore, the tribunal issued a fresh notice Ex. 8 to the second party workman to appear on 16.01.2014. On 24.02.2014 & 01.12.2016, the second party workman moved the applications Ex. 10 and 12 respectively for adjournment to lead evidence but to no result. Today on 02.02.2017, the workman is again absent to lead evidence. Thus it appears that the second party has not been willing to prosecute the case.
2. Therefore, the tribunal has no alternative but to dispose of the reference in the absence of the evidence of the second party workman with the observation as under: “the action of the management of Life Insurance Corporation of

India, Ahmedabad in terminating the services of Shri Poonam B. Naya w.e.f. 31.07.2000 orally without following the provisions of the I.D. Act is proper and justified.”

3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 549.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बोच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 167/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/2/2006-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 549.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 167/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/2/2006-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 18th January, 2017

Reference : (CGITA) No. 167/2006

- 1. The General Manager,
Western Railway,
Church Gate, Mumbai
- 2. The Divisional Manager,
Western Railway, Kalupur,
Ahmedabad (Gujarat) ...First Party

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
E-209, Sarvottamnagar, Sabarmati,
Ahmedabad (Gujarat) ...Second Party

For the First Party : Shri N.J. Acharya
For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/2/2006-IR(B-I) dated 05.09.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Ahmedabad for not fixing the salary at par to the juniors working in the same category as per Annexure – A is legal and justified? If not, what relief the workmen are entitled to and to what extent?”

1. The reference dates back to 05.09.2006. Both the parties were served. After transfer of this reference to this tribunal, fresh notice was issued to both the parties to appear on 16.04.2011. Pursuance to the notice of the tribunal, the first parties submitted the joint vakalatpatra Ex. 6 on 24.09.2007 but the second party did not submit the vakalatpatra or statement of claim. Now today on 18.01.2017, Shri R.S. Sisodiya, The Divisional Secretary, Paschim Railway Karmachari Parishad, expressed unwillingness to prosecute the case and requested to withdraw from the reference.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 550.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 22/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41012/122/2007-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 550.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41012/122/2007-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 20th January, 2017

Reference : (CGITA) No. 22/2010

The Divisional Railway Manager,
Western Railway, Kalupur,
Ahmedabad (Gujarat)

...First Party

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E-209, Sarvottam Nagar, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri N.S. Vaghela

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/122/2007-IR(B-I) dated 27.11.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Divisional Railway Manager (E), Ahmedabad in disallowing Shri U.H. Raval, Ex-Os’ II Vatva, to join his duties at Vatva Diesel Shed, despite his reporting for duty at Vatva Diesel Shed was justified and reasonable? If not, to what relief he is entitled and from which date?”

1. The reference dates back to 27.11.2007. Both the parties were served by registered post on 04.12.2008. The first party submitted the vakalatpatra on 31.08.2012 but the second party did not prefer to submit the vakalatpatra or statement of claim. The second party has also been absent since the pending of the reference. The General Secretary, Paschim Railway Karmachari Parishad, is also present today but did not prefer to submit the authority letter as well as statement of claim. Thus it appears that the second party has not been willing to prosecute the case.

2. Therefore, the reference is disposed of in the absence of the pleadings of the parties with the observation as under: “the action of the Divisional Railway Manager (E), Ahmedabad in disallowing Shri U.H. Raval, Ex-Os’ II Vatva, to join his duties at Vatva Diesel Shed, despite his reporting for duty at Vatva Diesel Shed was justified and reasonable.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 551.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बोच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 139/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-41011/60/2012-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 551.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 139/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 23.02.2017.

[No. L-41011/60/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 20th January, 2017

Reference : (CGITA) No. 139/2012

1. The General Manager,
Western Railway, Churchgate, Mumbai – 400020
2. The Sr. Divisional Finance Manager,
Western Railway, Near Chamunda Bridge,
Asarwa, Ahmedabad (Gujarat)

3. The Finance Advisor & Chief Accounts Officer,
Western Railway,
Churchgate, Mumbai

4. The Dy. Chief Accounts Officer (Cash & Pay),
Western Railway,
Churchgate, Mumbai

...First Party

V/s

The President,
Paschim Railway Karmachari Parishad,
B/28, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati, Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Rajesh Singh Thakur
For the Second Party : Shri R.S Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/60/2012-IR(B-I) dated 11.09.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway, Ahmedabad in not paying the Salary to Shri Gajendra Prasad Soti, Sr. Cashier of the period from 03.10.2011 to 14.11.2011 and from the date of suspension to 12.08.2011, in recovering Rs. 20 from him and in not placing Shri Soti as per rotational transfer is legal and justified? To what relief the concerned workman is entitled?”

1. The reference dates back to 11.09.2012. Both the parties submitted the statement of claim Ex. 4 and written statement Ex. 7 on 06.12.2012 and 10.11.2013 respectively. The second party has also submitted his affidavit Ex. 8 as his examination in chief on 21.02.2014. Now today on 20.01.2017, Shri R.S. Sisodiya, The President, Paschim Railway Karmachari Parishad, has expressed unwillingness to prosecute the reference and has also requested to withdraw the case.
2. Therefore, the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 552.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एफसीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई के पंचाट (संदर्भ सं. 2/75 ऑफ 2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-22011/35/2009-आईआर (सोएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 552.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/75 of 2009) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 23.02.2017.

[No. L-22011/35/2009-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M.V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/75 of 2009

**EMPLOYERS IN RELATION TO THE MANAGEMENT OF
FOOD CORPORATION OF INDIA**

The Area Manager
Food Corporation of India
Food Storage Depot, Rajendra Nagar
Dattapada
Borivali (E)
Mumbai 400 066.

AND

THEIR WORKMAN

Shri Munir Huddar Pathan
Room No.7, Babu Maruti Patekar Chawl
Sawarpada
Borivali (E)
Mumbai 400 066.

APPEARANCES:

FOR THE EMPLOYER : Mr. D.S. Sapkale, Advocate

FOR THE WORKMAN : Mr. A.M. Koyande, Advocate

Mumbai, dated the 30th November, 2016.

AWARD

1. The Government of India, Ministry of Labour & Employment by its Order No.L-22011/35/2009-IR (CM-II) dated 24/09/2009 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the Area Manager, Food Corporation of India, Borivali, in retiring Shri Munir H. Pathan from the services w.e.f. 09.02.2008 is legal and justified? To what relief the workman is entitled to?”

2. After receipt of reference, notices were issued to both the parties. In response to notice, second party workman has filed statement of claim at Ex.5. According to him initially they were labour with RDF i.e. Regional Directorate of Food. Thereafter in 1969 after the establish of Food Corporation of India and after taking of the charge / responsibility and liability of RDF, the officers and labours were observed in Food Corporation of India w.e.f. 1.3.69 on regular basis. He got his permanent wage No. 513 w.e.f. 10.2.66. Food Corporation of India observed earlier offices / employees / workman with responsibility and liability of Regional Director of Food w.e.f. 1.3.69 on regular basis. However, there was no age of retirement fixed in Food Corporation of India. The workman used to sent to Govt. hospital and if found physically fit to work, he used to be continued.

3. According to the workman, there is no birth record of claimant like school leaving certificate as he is uneducated or any birth certificate as he was born in Maniyarpur Village, Uttar Pradesh and during those days there was no system of recording birth of a child at local places. Hence he is not having documents to show his exact age. On or around 1966, he came to Mumbai in search of employment. He used to go to Borivali Depot of the said RDF and officers used to assigned some duties like collecting food grains or sweeping scattered food grains and / or loading or unloading of food grains bags in godown or trucks, tempos or railway wagons. The officers of RDF did not ask him about his age or birth record at the time of writing his name and he was assigned or asked to work looking to his physical capacity. He started to work as labourer with RDF irrespective of his age. He worked on temporary basis for the period of 2 years and after the Food Corporation of India given his Wage No. 513 he became the permanent employee of the Organisation. However, after passing of orders, the concerned officers of the Organisation asked him to get certificate from hospital to get his age determination as per the practice in vogue and to determine the age of literate labourers. About 10 years ago he went to JJ Group of Hospitals, Byculla, Mumbai. However, in the absence of proper test, hospital did not give satisfactory certificate to him. Thereafter about 5 years ago he went to Sushrushti Citizen

Hospital, Dadar to bring the certificate. However, the said hospital did not give age certificate. Concerned officers of the Organisation further asked him to bring age certificate from the Govt. Hospital to enable to determine the age of retirement of the claimant. Thereafter on 20.4.2007 Secretary of Food & Dock Workers Association, Mumbai addressed a letter to refer his matter to JJ Hospital in the matter of determining his age.

4. According to the concerned workman he went to JJ Hospital and after the required test, Supt. of JJ Hospital issued a certificate to him confirming that from his appearance, physical and mental condition he is about 57 years of age. He got certificate on 8.5.07 from the hospital. However, management issued Office Order dt. 29.6.2007 stating therein that as per the records he would be retiring on 9.2.2008 instead of 8.5.2010. So according to workman his age on 8.5.2007 was 57 years and according to that he is liable to retire on 8.5.2010 on attaining age of 60 years. He, therefore, approached the unit and the union leader advised him to demand from Respondent No.1 relating to his retirement which he did. So according to workman by compulsory retiring him he was deprived by his monthly salary for the period of 2 years. He has not reached superannuation age and as such action of area manager FCI Borivali retiring him on the services w.e.f. 9.2.2008 is illegal. He is therefore asking to set aside office order of Respondent No. 1 dt. 29.6.2007 and to direct the first party to allow him to work till he is fit to work. He is also asking for back wages from 10.2.2008 till his retirement.

5. First party management has registered a claim by filing written statement at Ex.6. According to first party management, second party workman was employed with Regional Directorate of Food under the Ministry of Food, Govt. of India from 10.2.1966 and after the inception of FCI during the year 1969, the staff and Mazdoors were taken on the roll of FCI. The record in respect of second party workman indicates that his employment is w.e.f. 10.2.1966. Management repeatedly requested the workman to produce proof of his date of birth which he did not produce till his retirement. He was sent to JJ Hospital for medical during the year 1989 for ascertaining his age. However, the Resident medical officer issued a certificate certifying that there is no any clinical or mythological method to ascertain the age of a person after the age of 25 years. So considering the appointment of the claimant in Regional Directorate of Food in the year 1966 he was sent to Sushrusha Citizen Hospital, Dadar for clarifying to carrying the job. Medical authority declared him to fit to carry the job and also declared his age as 47 years as on 29.12.1995. The Respondent taking into consideration the medical certificate issued by JJ Hospital on 2.6.1969 decided to retire the claimant / second party workman w.e.f. 30.6.2007. However, claimant and Transport Docks Workers Union requested the management / Respondent to obtain fresh medical certificate in respect of date of birth of claimant. Accepting the said request, claimant was sent to JJ Hospital which declared the age of claimant as 57 years as on 8.5.2007. So taking into consideration the medical certificate and existing rules of Govt. of India relating to appointment and superannuation of the employees, Respondent has considered his appointment in the Regional Directorate of Food on 10.2.1966 at the age of 18 years which is prescribed for govt. services as no one can appoint below 18 years as per Child Labour Abolition Act. Thus, the claimant is accordingly retired on 9.2.2008 on attaining the age of 60 years. Even the claimant by his letter dt. 11.7.2008 stated that he satisfied with justification furnished by the office relating to his superannuation. Thus, according to first party management claimant / first party workman is rightly retired on the age of his superannuation. It is, therefore, prayed that the reference be rejected with costs.

6. Following issues were framed at Ex. 8. I reproduced the issues along with my findings thereon for the reasons to follow.

Sr. No.	Issues	Findings
1.	Whether the action of the Area Manager, Food Corporation of India, Borivali, in retiring Shri Munir H. Pathan from the services w.e.f. 09.02.2008 is legal and justified?	Yes.
2.	If not, what relief the worker is entitled to?	As per final order
3.	What order?	As per final order

Issue No. 1

7. The claim of second party workman is based on two fold grounds. One ground is that there was no age of retirement fixed in by FCI and if workman is found physically fit to work he is to be continued. Second ground is that after medical test his age was determined as 57 years as on 8.5.2007 and accordingly he is liable to be retired on 8.5.2010 on attaining the age of 60 years.

8. In respect of first ground that no any age of retirement is fixed by FCI, there is no document to show that it was vogue practice to continue workman in the employment if he is physically found fit. We have document i.e. circular

dt. 29.11.1998 bearing No. IR (L)/4(10)1998 of FCI regarding enhancement the age of retirement for the departmental workers under DPS and no work no pay system. As per this circular the departmental workers as well as workers under direct payment system and no work no pay system shall be superannuating from services on attaining the age of 50 years but the Govt. of India has decided to enhance the age of superannuation from 58 years to 60 years in case of employees in Central Public Sector Enterprises. In terms of such decision of the Govt. of India it has been decided that the age of retirement for the departmental workers, the workers under direct payment system scheme and no work no pay system shall be enhanced from the age of 58 years to 60 years w.e.f. May 1998. In view of circular, it is clear that age of retirement was fixed at the age of 60 and not on the basis of physical fitness of workman.

9. In his statement of claim and in his evidence, the workman has stated that there is no birth record showing the age like school leaving certificate as he is uneducated. Admittedly, there is no birth certificate to show his birth date. Precisely, therefore there is no document to show the exact age of the concerned workman.

10. It is in that circumstances, he was asked to get the certificate from the hospital to get his age determined as per the practice in vogue to determine the age of illiterate labourers. He was sent to JJ Group of Hospitals, Byculla, Mumbai but in the absence of proper test the hospital did not give his certificate. Again he was sent to Sushrusha Citizen Hospital, Dadar to bring his age certificate. However, the said hospital did not give the age certificate. Again he was sent to JJ Hospital for ascertaining his age and according to concerned workman after the required test the Superintendent of JJ Group of Hospitals issued certificate confirming that from his appearance, physical and mental condition he is about 57 years as on 8.5.2007. So the question is whether this certificate issued by JJ Group ascertaining his age is 57 years as on 8.5.2007 can be a concrete proof showing his exact age in the year 2007.

11. It appears that while ascertaining his age in the year 2007, no any ossification or radiological test was conducted for determining his age. What is stated is that Superintendent of JJ Group of Hospitals issued certificate in respect his age from the appearance, physical and mental condition of the concerned workman. In my considered view that cannot be a concrete or reliable certificate ascertaining or determining the age of the concerned workman since no radiological test was conducted. Even the ossification test have an error of 2 years in determining the age of the person on either side. Precisely, it is the contention of the management that since this test was not proper for determining the age of the concerned workman, the said certificate issued by JJ Group was not taken into consideration while considering his age of retirement. In para 3 of the written statement it is stated that in the year 1989 the claimant was sent to JJ Hospital for medical test for ascertaining his age. However, Resident Medical Officer has not conducted any clinical or radiological method to ascertain the age of the workman and therefore that certificate was not taken into consideration.

12. It is in that circumstances it appears that the concerned workman and Transport & Dock Workers Union requested to obtain the fresh medical opinion in respect of date of birth of the claimant. By accepting the request of the claimant and Transport & Dock Workers Union, he was referred to JJ Hospital which declared his age as 57 years as on 8.5.2007. But at that time also no clinical or radiological method was conducted for ascertaining his age. As such a medical certificate issued by the JJ Hospital was not taken into consideration to ascertain his date of superannuation as it was not conclusive proof of ascertaining the age of the claimant.

13. Learned Counsel for Respondent Management submitted that the medical authorities of JJ Hospital issued two certificates regarding age of claimant / workman which are contradictory to each other. Both the times no clinical or radiological method was adopted to ascertain the age of the claimant and therefore those medical certificates are not conclusive proof regarding age of claimant. This submission is acceptable and therefore it cannot be said that there is conclusive proof in the form of medical certificate issued by JJ Hospital regarding the age of the claimant.

14. As seen earlier there is no other document to show as what was the age of the claimant / workman at the time, he joined the Regional Directorate of Food and thereafter he was admittedly taken on the role of Food Corporation of India w.e.f. 10.2.1966. Having considered that the age of retirement of superannuation age is 60 years in respect of employees working in Food Corporation of India, it appears that the retirement age of the claimant / concerned workman was fixed on the basis of admitted fact to the effect that his employment with Food Corporation of India is from 10.2.1966. The question is that as to what was the age of workman as on 10.2.1966.

15. In the context, the Learned Counsel for Respondent/Management submitted that as per the provisions of Child Labour Abolition Act the age of the employee has to be considered as 18 years at the time of his appointment. Admittedly, the concerned workman was appointed in Regional Directorate of Food on 10.2.1966. If it is considered that as per the provisions of Child Labour Abolition Act one cannot be appointed whose age is below 18 years at the time of appointment then it can be considered that at the time of appointment of claimant / concerned workman in Regional Directorate of Food, he was 18 years of age. Considering that his age was 18 years at the appointment in Regional Directorate of Food i.e. on 10.2.1966 he attained the age of 60 years on 9.2.2008 i.e. $18 + 42 = 60$. This submission appears probable and acceptable since in the absence of documentary evidence showing the age of the concerned workman it can be considered that when he was appointed in the service his age was 18 years and then from that date his age of retirement can be determined. Admittedly, he was appointed in Regional Directorate of Food on

10.2.1966 so on 10.2.1966 his age was 18 years and therefore his age of retirement at the age of 60 years would be 9.2.2008. It appears that he is rightly retired at the age of 60 years after attaining the age of 60 years.

16. Even then Learned Counsel for concerned workman submitted that the workman is entitled to work till he is physically fit even after 60 years of age since first party management did not fix the age of retirement immediately at its inspection is corporation in the year 1969 and workman and staff whose services were not taken over by the first party from RDF used to be continued in the service even after 60 years of their age till they are physically fit. He submits that similarly situated workman had filed application under Gratuity Act before controlling authority and it was partly allowed and appeal bearing appeal No. 36(12)/2006-PG-Appeal before Regional Labour Commissioner was allowed directing them to pay gratuity till resignation. In view of that the submission is that the present second party workman is also entitled to work till he is physically fit.

17. This submission is not acceptable since it is held that by view of circular dated 29.5.1998 the age of the workers under direct payment scheme and no pay no work scheme is fixed age of retirement at 60 years w.e.f. 29.5.1998. Even otherwise there is no evidence to show that the workman is entitled to work till he is physically fit even after the age of 60 years.

18. That apart we have document to show that after superannuation the claimant / workman sought the information under RTI Act about his retirement and Respondents supplied the required information to the claimant. Thereafter claimant submitted letter to the office of Respondent at Borivali on 11.07.2008 stating that he is satisfied with the justification furnished by the office relating to his superannuation. It shows that the concerned workman / claimant was satisfied that his superannuation was on proper date considering his age as 18 years on 10.02.1966 at the time he was appointed in RDF. In view of that also it is not possible to accept the contention of the claimant / workman that he is entitled to work even after age of 60 years till he is found physically fit.

19. Considering all these facts I find that the action of Area Manager, Food Corporation of India, Borivali in retiring the claimant from services w.e.f. 09.02.2008 is legal and justified. Issue No.1 is answered accordingly.

Issues Nos. 2 & 3:-

20. In view of my findings to issue No.1, claimant is not entitled to any relief. Hence the reference is liable to be rejected.

21. Thus I proceed to pass the following Order.

ORDER

Reference is rejected with no order as to costs.

Date: 30.11.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 553.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टीसीएमडीएफआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 15/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-42012/210/2005-आईआर (सोएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of M/s. TCMDFI and their workmen, received by the Central Government on 23.02.2017.

[No. L-42012/210/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present :

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 15/2006

Date of Passing Award – 1st December, 2016

Between:

1. The Executive Director,
Tribal Coop. Marketing Dev. Federation of India Ltd.,
Head Office, N.C.U.I, Building, 2nd Floor,
Siri Institutional Area, August Kranti Marg,
New Delhi – 110 016.
2. The Regional Manager,
Tribal Coop. Marketing Dev. Federation of India Ltd.,
Regional Office, Plot No. A-104,
Sahid Nagar, Bhubaneswar (Orissa) – 07

(And)

Shri Subal Nayak,
C/o. Tiger Youth Club,
Patharabandha Basti (North),
At./Po. Vani Vihar,
Bhubaneswar (Orissa) ...2nd Party-Workman.

Appearances:

M/s. Subrat Mishra, Advocate ... For the 1st Party-Managements
M/s. R. Mohanty, Advocate ... For the 2nd Party-Workman

AWARD

The award is directed against a reference with following schedule:-

"Whether the action of the management of Tribal Co-operative Marketing Development Federation of India Ltd. In terminating the services of Shri Subal Naik, Sweeper w.e.f. December, 2002 is legal and justified? If not, to what relief is the workman entitled?"

made by the Government of India, Ministry of Labour & Employment in exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide letter No. L-42012/210/2005 – IR(CM-II), dated 17.08.2006.

2. Factual matrix relevant for the purpose of disposal of the reference may be stated as follows:-

The workman Shri Subala Naik is alleged to have joined his duties as a Sweeper on 1.10.1998 being employed casually and temporarily by the Management. He was engaged in the work of cleaning the office premises and in addition he was also given the duties to look after the garden of the office, night watchman and peon, when regular incumbents were on leave. He was given employment on daily wage basis and total wages for the month was paid to him at the end of the month and he was not paid wages on Sundays and on public holidays. At the time of his joining his daily wage was fixed at the rate of Rs. 15/- per day which was enhanced to Rs. 25/- per day from 1st May, 1999 onwards and the same was enhanced to Rs. 40/- per day from the month of June, 2001 onwards.

3. It is the claim of the workman that he was in continuous service of the Management for more than four years till he was debarred from discharging his duties on the middle of December, 2002, when he raised before the Management for regularization of his service. According to him he was performing his duties continuously for 240 days in a calendar year and his termination was made without notice pay and compensation as contemplated under section 25-F of the Act. Hence, he raised a dispute before the labour machinery resulting in the reference. A prayer has been made in the statement of claim for his reinstatement with back wages and other service benefits.

4. The Management has resisted the statement of claim of the workman taking a stand that Shri Naik is not a "workman" as defined under Section 2(s) of the Act since he was not given any appointment and he was given contract job of sweeping the office premises. As there was a regular staff of Watchman-cum-Sweeper in its office no occasion arose to give him appointment either as temporarily or casually to work as a Sweeper. Appointment to the post of Watchman-cum-Sweeper or Peon is being made in accordance to the Government rules. The disputant workman was engaged for an hour only to sweep the premises for Rs. 15/- a day on contract basis and as such, there was no "employer and employee" relationship as claimed by the disputant workman. Besides, his engagement was on need basis and as such provisions of Section 25 of the Act is not attractable in disengagement of the disputant workman. Hence prayer has been made for rejection of the statement of claim.

5. On the aforesaid pleading of the parties the following issues have been settled for proper adjudication of the dispute.

ISSUES

1. Whether the action of the Management of Tribal Co-operative Marketing Development Federation of India Ltd. In terminating the services of Shri Subal Naik, Sweeper w.e.f. December, 2002 is legal and justified?
2. If not, to what relief is the workman entitled to?

6. Besides examining himself as W.W.-1 the disputant workman has relied upon the Xerox copies of documents like note-sheets of different dated marked as Ext.-1 to 1/41 series) to substantiate its claim, whereas the Management has examined its Regional Manager, Bhubaneswar only to refute the claim of the 2nd party.

FINDINGS

ISSUE NO. 1 & 2

7. It appears from the pleadings and contentions advanced by the parties that the dispute was referred on account of the claim of the disputant workman that he had worked for 240 days in a calendar year in the office of the Management from December, 1998 to 2002 and his service was terminated without any reason and without compliance of Section 25-F of the Act. In view of the stand taken by the Management that the workman was only given contract job for a few hours of the morning session of the office to sweep its office premises on a daily wage of Rs. 15/- per day the initial burden lies on the workman to prove that he was given appointment casually or temporarily as a Sweeper and he worked for more than 240 days in a calendar year before his alleged disengagement/termination. To discharge his onus in this regard the workman has only asserted orally that his engagement was through-out the day and he has relied on the office notes of the Management marked Ext.-1 series. It has been elicited from his cross examination that Shri Sudam Naik of his village was posted and working as regular night Watchman-cum-Sweeper in the office of the Management by the time of his engagement. Shri Naik was on official tour when he was appointed as a Sweeper. He has admitted in his cross examination that in absence of Shri Sudam Naik he was engaged as a part time Sweeper. A separate attendance register is being maintained in the office of the Management and he was not putting his signature in the said attendance register during the period of his engagement. He has also admitted that neither he was given any appointment letter nor he submitted any joining report to the Management. There was no advertisement or invitation of application for the post of Sweeper. According to him he was paid extra amount when he was asked to do other duties than the sweeping work.

8. Further, on a close scrutiny of Ext.-1 series it is found that he was paid Rs. 15/- daily for doing the sweeping and cleaning the premises of the establishment of the Management. There is no serious dispute to the claim that he worked as such on daily wage basis for a period of four years. But, from a mere reading of the office notes it can be concluded that he was given the job of sweeping on contract basis at a rate which differs from time to time. The nature of work to be carried out by the disputant workman and the amount to be paid to him for doing such job in a day have been clearly indicated in those office notes marked as Ext.-1 series. If the entries made in Ext.-1 series are taken into consideration along with the elicitations made by the workman in his cross examination as discussed in supra, an irresistible conclusion can be drawn that the job of sweeping was given to the disputant workman on contract basis and as such, his engagement was apparently a contract job and not based on a daily wager/casual labourer/worker. Hence he cannot be treated as a "workman" of the Management as contemplated under section 2(s) of the Act. Therefore, benefits as provided in Section 25-F of the Act cannot be extended to him. His disengagement, if any, seems to have been covered within the meaning of Section 2(oo)(bb) of the Act. Therefore, such disengagement, if any, cannot be termed as illegal and unjustified and the workman is not entitled to any relief.

9. Reference is answered accordingly.

Dictated & Corrected by me.

B.C. RATH, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 554.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीएमपीडीआईएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 105/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/203/1995-आईआर (सोएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 554.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of M/s. CMPDIL and their workmen, received by the Central Government on 23.02.2017.

[No. L-22012/203/1995-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present :

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 105/2001

Date of Passing Award – 8th December, 2016

Between :

The Regional Director,
CMPDIL, R.I.-VII, Gruha Nirman Bhawan,
Sachivalaya Marg., Bhubaneswar ... 1st Party-Management.

(And)

The Zonal Secretary (O), NCOEA,
C/o. CMPDIL, R.I.-VII, Gruha Nirman
Bhawan, Sachivalaya Marg, Bhubaneswar ... 2nd Party-Union.

Appearances:

M/s. N.K. Mishra, Advocate	... For the 1 st Party-Management.
M/s. G. Mishra,	... For the 2 nd Party-Union

AWARD

The Government of India in the Ministry of Labour in exercising its power conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 have referred a dispute between CMPDIL and their workmen vide letter No. 22012(203)/95-IR (C-II), dated 08.11.1995 for its adjudication with following schedule:-

“Whether the action of the Management of CMPDIL in not regularizing the workman S/Sh. G.C. Sahu, P.K. Behera, S.C. Swain and Nirad Khillar is lawful and justified? If not, to what relief the workmen are entitled to?”

2. The case of the 2nd party-Union as emerges from its statement of claim is that the disputant-workmen and some others were working as Drilling Mazdoor being appointed as casual workers by the Management from the year 1987 till they have been disengaged in July, 1990. The disputant workmen are stated to have worked for more than 240 days in a calendar year during the tenure of their service. Service of casual workers numbering 15, who were also engaged along with the disputant workmen as Drilling Mazdoor, were regularized whereas the disputant workmen were retrenched from their services illegally and arbitrarily without compliance of provisions of the I.D. Act including

payment of compensation and notice pay as contemplated under section 25-F of the I.D. Act. When they raised a dispute before the labour machinery they were asked to supply water in the mining area of the Management. The conciliation proceeding between the disputant workmen and the Management before the labour machinery having failed the dispute has been referred as mentioned supra for its adjudication.

3. In its written statement the Management has refuted the allegations raised by the disputant workmen and challenged the maintainability of the reference taking a stand that no relationship and “employer and employee” or “workman” and “Industry” as defined under section 2(s) and 2(j) respectively exists between the parties. According to it the disputant workmen were never employed by the Management in any capacity and they were not in continuous service for more than 240 days in a calendar year. They were given contract job of supplying water in the mining operation area. When the disputant workman and two others raised a dispute claiming employment and regularization of their service a settlement was arrived at before the labour machinery as a result of which Shri Kulamani Moharana was given regular service as per the terms and conditions of the settlement and the disputant workmen being a party to the settlement/agreement has no right to raise a dispute under the I.D. Act. Since they were never engaged or employed continuously for 240 days in a calendar year by the Management as casual worker, there was no requirement to comply the provisions of Section 25-F of the Act. Hence, their disengagement, if any, is not illegal and unjustified due to non-compliance of the provisions of Section 25-F of the Act. When the disputant workmen were not in employment of casual worker for more than 240 days continuously, no question arises for regularization of their service pursuant to the provisions of Certified Standing Order of the Management and their reinstatement with back wages and other service benefits as claimed by the 2nd party-Union.

4. On the aforesaid pleadings of the parties the following issues are settled for proper adjudication of the case.

ISSUES

1. Whether the action of the Management of CMPDI in not regularizing the workman S/Shri G.C. Sahu, P.K. Behera, S.C. Swain and Nirod Khillar is legal and justified?
2. If not, to what relief the workmen are entitled to?

5. The disputant workmen Shri Prasanna Kumar Behera has been examined as W.W.-1, Shri Nirod Khilar as W.W.-2, Shri Sarat Chandra Swain as W.W.-3 and Shri Girish Chandra Sahu as W.W.-4 in support of the pleadings raised in the statement of claim and documents like original copy of daily log sheets, original copies of the report containing the name of disputants, original copy of daily log sheets and original copy of the minutes of meeting dated 24.1.1991 have been exhibited on behalf of the 2nd Party-Workmen marked as Ext.-1 to Ext.-4. To refute the allegations the Management has examined Shri Tulsi Das, Chief Manager (Geology) as M.W.-1 and Shri Indrajit Banerjee, Chief Manager and filed documents like xerox copy of settlement, xerox copies of vouchers, xerox copy of bills for supply of water, xerox copy of the O.J.C. No. 10441/1996, xerox copy of order dated 1.10.1996 in M.C. No. 9330/1996 final order in respect of tender notice, xerox copy of order dated 1.7.2008 in O.J.C. No. 10441/1996, xerox copy of the order dated 1.7.2008 in O.J.C. No. 728 of 1997, xerox copy of strike notice dated 23.6.2008, xerox copy of letter of R.L.C., Bhubaneswar dated 9.7.2008 marked as Ext.-A to Ext.-H).

FINDINGS

ISSUES NO. 1 & 2

6. For better appreciation of the dispute all the issues are taken up together for consideration. The 1st Party-Management has denied the status of the disputant workmen as “workmen” defined under Section 2(s) of the Act on a specific contention that they were given contract job to supply water in the mining area of A-camp and their contract job came to an end in the event of shifting of camp to other place. In that view of the matter initial onus lies on the disputant workmen to establish that they were employed or engaged by the Management as casual labourer or drilling mazdoor. Admittedly, the disputant workmen were not issued with any appointment letter or termination letter. Though the workmen have claimed in their oral evidence that they were receiving wages from the Management, no prayer was made by them for causing production of wage register or muster roll or attendance register maintained by the Management in running the mining A-Camp. The documents which are filed on behalf of the Management and marked as Ext.- B to B/25 are apparently certain vouchers in respect of payment to Shri Girish Ch. Sahoo, Shri Prasanna Kr. Behera, for supply of water to the Management. On the basis of entries in these documents no reasonable person can reach a conclusion that the exhibits are related towards payment of wages to the disputant workmen. On the other hand it has been elicited from the cross examination of disputant workmen that they and one Biju Patnaik and Kulamani Maharana raised dispute before the A.L.C.(C) through the 2nd party-Union for regularization of their services and as an outcome of the said dispute service of Kulamani Maharana was alone regularized on the basis of a bipartite settlement. It is admitted by Shri Nirod Khillar W.W.-2 that his service and service of some others could not be regularized as they had not completed 240 days of work. The oral evidence of the Management and the documents relied upon by the Management more particularly Ext.-J and Ext.-K indicate that the work of water supply was given to

one of the disputants Shri G.C. Sahu being the lowest bidder in response to the tender advertisement. The witnesses examined on behalf of the 2nd Party-Union have also admitted that there was no public advertisement for any recruitment in the establishment of the Management and they had not attended any interview for the purpose. Thus, the evidence of the 2nd party-Union is totally wanting to discharge the initial burden of the disputant workmen to establish that they were ever given engagement or employment by the 1st Party-Management to work as a casual labour or drilling mazdoor and they were in such employment for more than 240 days continuously in a calendar year. The 2nd party-Union having failed to establish the engagement or employment of the disputant workmen by the Management, there is no other authentic evidence to support the contention that the disputants were “workmen” under the Management and they were disengagement or removed from service with effect from July, 1990. When it is not established that the disputants are “workmen” under the 1st Party-Management their alleged termination cannot be termed or considered as an industrial dispute to be adjudicated under the provisions of the I.D. Act. When there is no material or evidence to hold that the disputant workmen worked for 240 days continuously in a calendar year, question does not also arise for compliance of provisions of Section 25-F of the I.D. Act i.e. payment of compensation an notice pay to the disputant. Hence the disputant workmen are not entitled to any relief prayed for.

7. The reference is answered accordingly.

Dictated & Corrected by me.

B.C. RATH, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 555.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट वाद संख्या 12/2015 (संदर्भ सं. 138/97 के तहत) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/170/1996-आईआर (सोएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 555.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Complaint No. 12/2015 (Arising out of Ref. No. 138/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of FCI and their workmen, received by the Central Government on 23.02.2017.

[No. L-22012/170/1996-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL (NO.1), DHANBAD

IN THE MATTER OF A COMPLAINT U/S 33(A) OF I.D ACT,1947

COMPLAINT NO. 12 of 2015

(Arising out of Ref.No. 138/97)

Ministry Order No. 22012/170/96-IR(C-II)

1. Chandrashekhar Sharma, AG II (D), FCI, FSD,
Phulwarisharif, District Office, Patna
2. Rajesh Kumar, AG II(D) FCI,FSD, Phulwarisharif
District Office, Patna

...Complainant

Vrs

Area Manager
Food Corporation of India
Dighaghat, Patna

...Opposite party

Present :- Sri Ranjan Kumar Saran, Officer Presiding

Appearances :

For complainants : Sri Vijayendra Kumar, Authorised representative

For opposite party : Sri Shataneek, Area Manager, FCI, Patna

State : Bihar

Industry : Food

Dated 25/10/2016

AWARD

1) The instant complaint is filed by the complainant against an order of penalty dated 22.8.2015 passed by the Opp. Party where under the penalty of withholding of two increment for one year was awarded against complainant No. 1 and recovery of Rs.50,000/-was awarded against complainant No. 2 for alleged storage loss without issuing even show cause notice prior to the issue of chargesheet under regulation 60 of FCI Staff Regulation 1971.

2) A reference no. 138 / 97 was pending before this Tribunal in respect of all employee of united Bihar region of FCI and during the pendency of the reference service condition has been changed without taking prior permission of this Tribunal as required under Sec. 33 (1) of the ID Act, as such a complaint under Sec. 33 A is filed before this Tribunal for violation of Sec. 33 of the ID Act.

3) It is said by the complainant that OTA is linked with the basic pay of an employee and if basic pay is reduced then the entitlement to get OTA is also reduced and the original reference is about OTA, therefore, the action of imposing punishment of withholding of increment is directly connected with the reference and admittedly the complainant are concerned with the said reference.

4) The further case of the complainant that they are mere assistant and working under the incharge of the shed and they are not the key holder, as such they are not responsible for the storage loss as alleged.

5) According to the complainant the charge sheet is about storage loss not for any misappropriation, defalcation or theft. Storage loss is the natural phenomena in FCI. Even 50 or 100 Kg. rice or wheat is kept in own house in sealed container and if it is weighed after some time there will be variation in weight and in FCI, the stock is kept in a godown as well as in open space and pilferage is going on, operational loss during loading, unloading and handling of stock are natural phenomena and the same shall not be a basis of charge sheet for storage loss.

6) It is further said there are several reasons of variation of weight i.e. the stock is unloaded from wagon and during unloading only 10 % stock is weighed and weight of entire 100 % stock are taken in record as per the weight of 10 %. 10 % means that 90% stock are kept in the godown un weighed and its weight is also recorded as per estimation at par with the weight of 10 % and this is the main and primary reason of variation in weight and occurrence of storage loss, for which nobody will be held responsible.

7) Beside the above, variation in moisture content is also a major factor of storage loss and after receipt of food grain loss of moisture is inevitable and for 1% moisture loss 0.7% loss takes place in rice and the same is permissible as per policy of FCI. Period of storage is also a factor and certain % is also allowed by the FCI against storage loss. Technical treatment is also a factor apart from rats and bird problem. Condition of godown is not proper as per norms but these vital facts are not considered by the Opp. Party while passing the order of penalty. It was further submitted that the above storage loss was regularised and written off from the records of FCI after considering the reason given by the complainants as such no action was required to be taken against the complainants.

8) To regulate the storage loss a detailed circular dated 12.12.2012 was issued by the FCI Hqrs. and in other circular dated 10.11.2006 the authority are specified to write off / regularise the storage losses marked as Exhibits. The storage losses/operational losses and its reason are also given in storage manual chapter 13.3.1 & 13.3. and there is clear provision that if in charge sheet allegation of theft is not mentioned then no action is required to be taken for any storage loss. The concerned District Manager has to fix the quantum of storage loss for each & every depot but the same was not done as yet.

9) It is The further case of the complainant that punishment of stoppage of two increment for one year cannot be made effective and the same is redundant as an employee will get one increment per year as such withholding of two increment in a year cannot be enforced and in this view order is also illegal. In this context it was further submitted by the complainant that as per clear provision made in CCS rule the penalty of withholding an increment takes effect from the date of increment accruing to an employee after the issue of punishment order , it cannot effect the increment which was due prior to the issue of the punishment order even though it may not have actually been drawn since an

employee is getting one increment in a year as such punishment of withholding of 2 increment for one year is quite ineffective, inoperative and shall not be enforced.

10) Notice was issued and WS was filed by the Opp.Party In their WS they have stated that there is no violation of Sec.33 and complaint petition under Sec.33 A is not maintainable. They have further said in their WS that the punishment is not an alteration in service condition and as such permission was not needed. They have further said that the complaint petition is not maintainable as remedy to file an appeal against the penalty order has not been exhausted.

11) In this case one witness was examined by the Opp.Party and was also cross examined by the complainant and case of both the parties was closed. It was stated by the complainant that the matter of storage loss and its occurrence is contained in detail in circular dated 12.12.2012 and in the storage manual vol.13 and MW-1 has also admitted the same very fair as such no evidence was adduced by the complainant, thereafter, the case was closed and fixed for argument.

12) Before considering the merit, it is desirable to decide the preliminary point raised by the Opp.Party about maintainability of the complaint. It is a fact that punishment was awarded on 22.08.2015 and on that date the reference was pending and it is also an admitted fact that OTA is linked with the basic pay. Since punishment order was passed on 22.08.2015 during pendency of reference and OTA is linked with the Basic pay and after reducing the basic pay the entitlement of OTA is also reduced as such the punishment is connected with the terms of reference, therefore for affecting any alteration compliance under Sec 33 (1) was mandatory on the part of the Opp.Party but has not taken any permission as such the complaint under Sec 33 A is quite maintainable.

13) During argument the Opp.Party has raised a point that remedy to file appeal was available to the complainant but without availing the remedy they have approached the Tribunal as such this complaint petition may not be entertained. But they have forgotten that the Industrial Dispute Act is a special legislation to resolve the dispute in between employer and employee and as per Sec.33 for any contravention there is express provision to file a complaint under Sec.33 A and there is no bar in the ID act that complaint be filed after filing appeal as such the said argument is not tenable.

14) In this case both parties have filed their documents which was marked Ext-on admission. The documents filed on behalf of the Op is marked Ext- M-1 series and the documents filed on behalf of the complainant is marked Ext- W-1 . One witness was also examined by the Opp.Party who has said in his deposition that he was Manager (Vig) during the relevant time and after loss was noticed the punishment was imposed but he did not asked him to explain the circumstances why there was loss but in his cross examination he has said that the shed incharge has to keep charge of the godown & complainant was not the shed incharge . He has further said that storage loss is usual in FCI godown and there are so many factor for storage loss and these factor are there in storage manual Ext- W1. He has further said that power to let of storage loss is conferred to different level of officer to write off the losses. He has further admitted that there is no allegation of theft or misappropriation against the concerned workman and it is fact that 10 % weightment taken at the time of receipt in the godown and 100 % weightment at the time of issue is also a major reason in weight loss in FCI.

15) From the perusal of the documents, evidence, pleadings and argument of the parties advanced in this case it is crystal clear that storage loss are accruing in every godown in FCI and calculation of storage loss has to be made stack wise, month wise and as per circular dated 12.12.2012. Its calculation has to be made by the Opp.Party after due consideration of period of storage , difference in moisture content, lack of technical treatment, rat and bird menace as well as condition of godown, recording of hypothetical weight of 90% stock is also a major and important factor and, thereafter, it has to be divided into two parts i.e. justified loss and unjustified loss and if the unjustified losses is beyond the delegation of power of the authority to regularise and in the charge sheet if theft and misappropriation is alleged then only action is required to be taken against the custodian employee of the corporation. The above provision is thoroughly mentioned in Ext- W-1, W-2 and storage manual Ext.2/1 and the authority of the corporation is bound to act as per the said provision but it is surprising that in memorandum Ext-M-1 these mandatory factors were not taken into consideration and the charge sheet M-1, was issued in violation of the aforesaid provision. In memorandum Ex- M-1 there is no calculation of storage loss month wise, stack wise and period of storage and difference in moisture content as well justified and unjustified losses. There is also no allegation of theft and misappropriation against the complainant and the said memorandum is completely vague. The entire losses of the entire period of a particular shed is shown in consolidated manner without taking into account all the mandatory factors as said above and as such the said memorandum Ex- M-1 is illegal and unjustified. However later on, on the demand of the complainant the details was provided to the complainant but before receipt of the reply of the said, the matter was decided, but any clarification made subsequently on the demand of the complainant will not validate the illegality of the said chargesheet.

16) On the perusal of the evidence adduced by Opp.Party, I find that at the time of arrival of stock in godown by rail only 10 % stocks are weighed and weight of 90 % stock are being recorded at par with the weight of 10 % stock and at the time of issue of stock to state govt. 100 % weight is taken and thus it is evident that no correct arrival weight can

be determined but employees working in the depot are compelled to record weight of 90% unweighted stock at par with weight of 10 % of weighed stock and at the time of issue if lessor weight is found then they are being charged for storage loss. This witness has also confirmed that there will be variation of weight due to 10 % weighment at the time of arrival and 100 % at the time of issue of stock.

17) As per storage manual (i) timely treatment (ii) rate & bird problem (iii) difference in moisture content (iv) period of storage loss (v) operational losses during loading & unloading (vi) variation of weight due to 10% and 100% are main factors of the storage loss. It is a fact that % of moisture at the time of receipt is always more than the % of moisture at the time of issue. As per Ex- W-1 for 1 % moisture loss there will be a storage loss of 700 Gr per quintal of rice beside further losses due to period of storage and other factors. During argument it was also submitted by the complainant that 10 % arrival weighment is taken by a team deputed by district office which is called ICCS and they are also suppressing the losses if the same is beyond 1 % to minimise the transit loss and save the despatching end and other officers and due to this the quantum of storage loss is increasing. It was further submitted that shed incharge or custodian has to accept the weight declared by ICCS and their protest are being ignored. The shed incharge are not made party to the ICCS team so that they may verify the genuineness of declared weight. The above submission of the complainant was not controverted or assailed by the Opp. Party .

18) The procedure to take 10 % arrival weighment in FCI is also peculiar and surprising. In Bihar food grain are being received by rail rake from states like Punjab, Haryana, UP, Chattishgrh and Andhra Pradesh etc. and every rake is having 42 wagons and after its arrival in FCI depots food grain of only 4 wagons are weighed against arrival weight and the weight of 4 wagons are made applicable to all the remaining 38 wagons. 10 % of stock of each and every wagon are not being weighed to determine the arrival weight. It is also a fact that in each wagons food grain of different sheds and different stacks having different weight was loaded by despatching end and food grain bags are of non-standard character s such definitely there shall be variation in weight in each and every wagons and correct arrival weight shall not be determined until and unless 100 % of food grain are weighed but custodian employee and shed in charge are bound to record this defective and hypothetical weight as final weight of 100 % stock in their books of account and at the time of issue to the state Govt. after 100 % weight through weighbridge if any variation is found then the custodian and other employee posted in the shed are being punished for no faults of their. It is also surprising that 10 % arrival weighment of 04 wagons is also being taken by ICCS team behind the custodian shed incharge and they are not allowed to verify even the genuineness of 10 % weighment made by ICCS. They are made scapegoat due to the illegal procedure of arrival weighment of 10 % stock as final weighment of 100 % stock in the books of account and the same is clear cut victimisation of the employee of the corporation. The weight recorded by the custodian employee as per the declaration of ICCS cannot be correct weight rather it is better to call it hypothetical weight.

19) It is necessary to observe that there is serious infirmity in the procedure of recording arrival weight of food grain in FCI and the same is quite defective, one-sided and vindictive. FCI is handing over the stock to its custodian employees in the depot only after 10 % weighment of stock and they are compelled to record weight of rest 90 % unweighted stock at par with 10 % as final weight of stock and at the time of issue 100 % weight is being taken and if any difference is found then they are being charged sheeted for storage loss or shortages. It is made clear that until and unless the stock is handed over to the custodian employee after 100 % weight they cannot be held responsible for any kind of variation in weight or storage loss or shortages on this count. 1 or 2 % difference in weight is inevitable and cannot be ruled out and the same should not be used as a weapon to punish the employees like the complainant. This is clear cut unfair labour practice on the part of management and the employee are being victimised on this score which should not be expected from the part of an employer like FCI. The higher management of FCI should take initiative to hand over the stock after 100 % weighment at the time of arrival to the custodian and until the said procedure is started there shall not be any punishment against the custodian of the stock in the FCI in the name of storage loss or shortage on this count.

20) The fundamental rule of law is any slightest punishment can not be imposed without asking for explanation and the circumstances of the lapses. But without obtaining any explanation, imposing punishment is violative of natural and such punishment is set aside.

21. In view of the discussion made herein above, it is held that the procedure for taking 10 % arrival weight and treating the same as final weight of the entire consignment in the books of account of the FCI is illegal & unjustified and any action on the basis of the hypothetical weight is also illegal and unjustified and accordingly the punishment dated. 22.08.2015 passed against the complainants of the case is set aside and Management is further directed to implement the direction given in the award within one month from the date of publication in the Gazettes of India.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 23 फरवरी, 2017

का.आ. 556.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एमसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 2/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.02.2017 को प्राप्त हुआ था।

[सं. एल-22012/111/2011-आईआर (सोएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 23rd February, 2017

S.O. 556.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of M/s. MCL and their workmen, received by the Central Government on 23.02.2017.

[No. L-22012/111/2011-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Rest. Misc. Case No. 2/2015

(Arising out of I.D. Case No. 38/2011)

ORDER

This order arises out of an application preferred under Order 9 Rule 13 C.P.C. making a prayer for setting aside the exparte award dated 11.12.2014 passed in I.D. Case No. 38/2011. It is the stand and contention of the Petitioner-Management that after being set exparte on 8.8.2012 the Management on being noticed attended the Lok Adalat conducted by the Tribunal on 24.8.2012 for a settlement of the dispute raised by the Union. In the said Lok Adalat the 2nd party took time to have a negotiation with the Management for settlement of the dispute. Thereafter the case was adjourned from time to time and as both the parties did not take any step they were set exparte alternatively. The 2nd party-Union had not adduced any evidence before it was set exparte on 7.2.2013. In view of non-persuasion of the reference/case by either of the parties a no-dispute award is supposed to be given or the reference would have been returned to the Ministry of Labour without any award. But, the Tribunal has committed a gross error in giving an exparte award in favour of the workmen solely on the basis of the statement of claim in absence of any evidence from either side. When the award was notified, the Management could know about the award and filed the present application making a prayer to recall the order dated 8.8.2012 by which it was set exparte and for setting aside the exparte award dated 11.12.2014 of this Tribunal.

It is pertinent to mention here that notice was issued to the Opp. Party-Union for its appearance and to submit its show cause on the petition of the petitioner-Management whereby prayer has been made to recall the exparte award. Despite such notice being sufficient when the Opp. Party-Union failed to make its appearance and file its show cause, the petition of the Management is heard exparte in absence of the Opp. Party-Union.

The only issue for consideration is whether the award dated 11.12.2014 of this Tribunal can be set aside and the order dated 8.8.2012 setting exparte the Management can be recalled in view of the provisions of Section 17-A of the Act whereby an Award becomes enforceable on the expiry of 30 days from the date of its publication.

In the case between M/s. Sangham Tape Company and Hans Ray the Hon'ble Apex Court have set out that **an industrial adjudication is governed by the provisions of the Industrial Disputes Act, 1947 and the Rules framed there under. The Rules framed under the Act may provide for applicability of the provisions of the Code of Civil Procedure. Once the provisions of the Code of Civil Procedure are made applicable to the industrial adjudication, indisputedly the provisions of Order IX, Rule 13 thereof would be attracted. But unlike an ordinary Civil Court, the Industrial Tribunals and the Labour Courts have limited jurisdiction in that behalf. An Award made by an Industrial Court becomes enforceable under Section 17-A of the Act on the expiry of 30 days from the date of its publication. Once the award becomes enforceable, the Industrial Tribunal or Labour**

Court becomes functus officio. As such, the Hon'ble Apex Court have observed that an application for recall of an exparte award can be entertained by the Industrial Tribunal/Labour Court only in case it is filed before the expiry of thirty days from the date of publication of the award.

However, in the case of Radhakrishna Mani Tripathy – Versus- L.H. Patel & Anr. passed in Civil Appeal No. 6737 of 2008 the Division Bench of the Hon'ble Apex Court basing upon the observation of the Apex Court in the case between Anil Sood –versus- Presiding Officer, Labour Court-II, (2001) 10 SCC have held that there is no substance that the Tribunal had become functus officio to set aside the exparte award after the same became enforceable under section 17-A thirty days after its publication. Thus a contrary view has been taken by the Hon'ble Supreme Court in the case of Radhakrishna Mani Tripathy.

Further, it cannot be over-sighted that the facts and circumstances under which the exparte award has been given is clearly distinguishable to the facts and circumstances involved in the case of M/s. Sangham Tape & Co –versus- Hans Raj. It cannot be over-sighted that in the case at hand both the parties were set exparte and no evidence was adduced by either side and the award seems to have been given basing upon the claim statement only. As the Union failed to take any steps in the reference after seeking adjournments in the Lok Adalat the reference ought to have been returned back without any answer due to non-persuasion by the parties.

In a decision of the Calcutta High Court in the case of B.R. Bermen and Mohatta (India) (Pvt.) Ltd. – versus- The Seventh Industrial Tribunal, West Bengal and others, reported in 1977 Lab. I.C. (NOC) 13 (CAL), the learned judges have held “**If the dispute cannot be settled in the absence of both the parties there would be no materials before it to decide such dispute. In such event, no award is possible to be made by the authority concerned and as such the provision has been made under Rule 22 to submit a suitable report to the State Government and to put an end to the proceeding before the Tribunal. When both the parties fail to appear nothing remains pending before the authority concerned to whom the dispute is referred although the dispute remains outstanding and not adjudicated. In such event, Section 20(3) of the Industrial Disputes Act which provides for the termini of the proceedings cannot be attracted because no final or any award can be made whereby the dispute can be resolved..... Until the adjudication of the dispute referred to the authority concerned, an award cannot be made within the meaning of an award as defined in Section 2(b) of the Act..... So long as the dispute remained unsettled and the proceedings come to an end without adjudicating upon the dispute between the parties there was no bar under the Industrial Disputes Act whereby the Government was precluded from referring the dispute over again so that there might be an industrial adjudication of the dispute as contemplated by the said Act.**” Keeping in view the above principle this Tribunal should have returned the reference without making any award. When both the parties failed to pursue their respective claims there is no scope for the Tribunal to adjudicate the dispute and give an award. Therefore, the award dated 11.12.2014 being passed without any adjudication is apparently a nullity and non-exists.

In the result, I am inclined to set aside the award and as there is sufficient cause for the Petitioner-Management for its non-appearance in the proceeding I find it also just and proper to recall the exparte order passed against the Management on 8.8.2012 and to restore the reference Case No. I.D. 38/2011 for adjudication of the dispute between the parties. Accordingly, both the parties be noticed fixing 09.02.2017 for their appearance and for further order. As statement of claim has already been filed by the 2nd party-Union the Management is directed to file its written statement on the date fixed.

Further, it cannot be over-sighted that the exparte award is already notified.

A copy of the order be sent to the Ministry of Labour for necessary action at its/their end since the exparte award is already published/notified.

B. C. RATH, Presiding Officer

नई दिल्ली, 27 फरवरी, 2017

का.आ. 557.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 56/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/53/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 557.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 56 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/53/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 26th day of December, 2016

INDUSTRIAL DISPUTE No. 56/2011

Between:

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd., Begumpet,
Hyderabad – 500 016Petitioner Union

AND

1. The General Manager (Engg.)
Air India, NACIL, Begumpet,
Hyderabad-16.
2. The Executive Director (South),
Air India, NACIL, Airlines House,
Meenambakkam,
Chennai – 600 017Respondents

Appearances :

For the Petitioner :	Sri Ch. Indrasena Reddy, Advocate
For the Respondent :	M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/53/2010-IR(CM-I) dated 24.8.2011 referred the following dispute between the management of Air India, NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDEULE

“Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad in deduction of wages and withholding of PLI of Shri S.S. Srinivas and 62 others for 25th and 26th May, 2010 is justified and legal? To what relief the workman concerned are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 56/2011 and notices were issued to the parties concerned.

2. The case is posted for Petitioner's evidence but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 558.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 50/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/21/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 558.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 50 of 2012) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/21/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 26th day of December, 2016**INDUSTRIAL DISPUTE No. 50/2012****Between:**

The Regional Secretary,
Air Corporations Employees Union,
Indian Airlines Ltd.,
Hyderabad – 500 016

...Petitioner Union

AND

1. The Station Head,
Air India, NACIL,
Begumpet,
Hyderabad – 500016.
2. The Executive Director,
National Aviation Company of India Ltd.,
Southern Region,
Chennai – 600 001

...Respondents

Appearances :

For the Petitioner : None

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/21/2010-IR(CM-I) dated 4.9.2012 referred the following dispute between the management of Air India, NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the Management of National Aviation Company of INdia Ltd., Hyderabad by denying payment of acting allowance as Salesman & Grant of Grade-3/9 to S/Shri B. Shyam Rao, Smt. M. Tara Bai, Shri M. Raju, Smt. Rosylina, Sri C. Srikanath, Shri G. Raj Kumar, Shri B. Bhaskar, Shri B. Satyanarayana & Smt. Nasrin Begum, Helpers are working as Salesman continuously is justified & legal? To what relief the booking office employees of Indian Airlines are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 50/2012 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 559.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 53/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/30/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 559.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 53 of 2012) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/30/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 26th day of December, 2016

INDUSTRIAL DISPUTE No. 53/2012

Between:

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd.,
Hyderabad – 500 016

...Petitioner Union

AND

1. The Executive Director (South),
Air India, NACIL, Airlines House,
Meenambakkam,
Chennai – 600 017.
2. The Station Head/General Manager(Engg.),
Air India, NACIL, Begumpet,
Hyderabad – 16.
3. The Dy. General Manager (Finance),
Air India, NACIL,
Begumpet,
Hyderabad-16

Appearances :

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/30/2010-IR(CM-I) dated 3.8.2012 referred the following dispute between the management of Air India, NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

"Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting one day wages of Shri G. Rajkumar and thirty other workmen (list enclosed) is justified & legal? If not, what relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 53/2012 and notices were issued to the parties concerned.

2. The case is posted for Petitioner's evidence but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 560.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 19/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/32/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 19 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/32/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated : the 26th day of December, 2016**INDUSTRIAL DISPUTE No. 19/2011****Between:**

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd.,
Hyderabad – 500 016

...Petitioner Union

AND

1. The Executive Director (South),
Air India, NACIL, Airlines House,
Meenambakkam,
Chennai – 600 017.

2. The Area Marketing Manager,
Air India, NACIL,
Haka Bhavan,
Saifabad,
Hyderabad

...Respondents

Appearances :

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-11012/32/2010-IR(CM-I) dated 7.4.2011 referred the following dispute between the management of Air India, NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad in withdrawing canteen facilities for the Main Booking Office staff at Haka Bhawan, Hyderabad and denying suitable monetary compensation in lieu of canteen facility is justified and legal? To what relief the workmen are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 19/2011 and notices were issued to the parties concerned.

2. The case is posted for Petitioner's evidence but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 561.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 14/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/33/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 561.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 14 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/33/2010-IR (CM-I)]

M. K. SINGH, Section Officer

नई दिल्ली, 27 फरवरी, 2017

का.आ. 562.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 13/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/26/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 562.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 13 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/26/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 26th day of December, 2016

INDUSTRIAL DISPUTE No. 13/2011

Between:

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd.,
Hyderabad – 500 016 ...Petitioner Union

AND

1. The Executive Director (South),
Air India, NACIL, Airlines House,
Meenambakkam,
Chennai – 600 017.
2. The Area Marketing Manager,
Air India, NACIL, Haka Bhavan,
Saifabad, Hyderabad ...Respondents

Appearances :

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-11012/26/2010-IR(CM-I) dated 28.3.2011 referred the following dispute between the management of NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting one day wages of Tamara Martin and twelve others workmen is justified and legal? To what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 13/2011 and notices were issued to the parties concerned.

2. The case is posted for Petitioner's evidence but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 563.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एंडर इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कमकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 10/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/28/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 563.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 10 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/28/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 26th day of December, 2016

INDUSTRIAL DISPUTE No. 10/2011

Between:

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd.,
Hyderabad – 500 016

...Petitioner Union

AND

1. The Executive Director (South),
Air India, NACIL, Airlines House,

Meenambakkam,
Chennai – 600 017.

2. Station/General Manager(Engg.),
Air India, NACIL, Begumpet,
Hyderabad – 16.

3. The Dy. General Manager (Finance),
Air India, NACIL,
Begumpet,
Hyderabad-16

...Respondents

Appearances :

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/28/2010-IR(CM-I) dated 28.3.2011 referred the following dispute between the management of Air India, NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDELE

“Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting the wages of Shri B. Ramesh Kumar and seven other workmen is justified & legal? To what relief the workmen are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 10/2011 and notices were issued to the parties concerned.

2. The case is posted for Petitioner's evidence but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 564.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 11/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/27/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 564.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 11 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/27/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 26th day of December, 2016

INDUSTRIAL DISPUTE No. 11/2011

Between:

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd.,
Hyderabad – 500 016
...Petitioner Union

AND

1. The Executive Director (South),
Air India, NACIL, Airlines House,
Meenambakkam,
Chennai – 600 017.
2. The Area Marketing Manager,
Air India, NACIL, Haka Bhavan,
Saifabad, Hyderabad.
3. Dy. General Manager (Finance),
Air India, NACIL,
Hyderabad-16
...Respondents

Appearances :

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/27/2010-IR(CM-I) dated 28.3.2011 referred the following dispute between the management of NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by deducting one day wages of Ms. Sujitha Mathur and twenty other workmen is justified and legal? To what relief the workmen are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 11/2011 and notices were issued to the parties concerned.

2. The case is posted for Petitioner's evidence but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 565.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एंडर इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 12/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.02.2017 को प्राप्त हुआ था।

[सं. एल-11012/24/2010-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 27th February, 2017

S.O. 565.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 12 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 27.02.2017.

[No. L-11012/24/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated : the 26th day of December, 2016

INDUSTRIAL DISPUTE No. 12/2011

Between:

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd.,
Hyderabad – 500 016

...Petitioner Union

AND

1. The Executive Director (South),
Air India, NACIL, Airlines House,
Meenambakkam,
Chennai – 600 017.
2. The Chief Manager (Personnel),
NACIL, Begumpet,
Hyderabad-16

...Respondents

Appearances :

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/24/2010-IR(CM-I) dated 28.3.2011 referred the following dispute between the management of NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad by not granting promotion to their workman Shri Ch. Ramana Reddy, Senior Helper (Commercial), NACIL, Hyderabad (Employee No. 643693) with effect from 1.10.2008 is justified and legal? To what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 12/2011 and notices were issued to the parties concerned.

2. The case is posted for Petitioner’s evidence but, inspite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 26th day of December, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 27 फरवरी, 2017

का.आ. 566.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैनेजिंग डायरेक्टर, होटल कारपोरेशन ऑफ इंडिया व अन्य एव उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 14/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/27/2014-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 27th February, 2017

S.O. 566.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 14/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Managing Director, Hotel Corporation of India and Others and their workman, which was received by the Central Government on 26.12.2016.

[No. L-42011/27/2014-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present :** Sri Kewal Krishan, Presiding Officer**Case No. 14/2014**

Registered on 23.06.2014

Centaur Hotel Employees Union, Through its President,
Centaur Lake View Hotel, Cheshmashahi, Srinagar(J & K)

...Applicant

Versus

1. Hotel Corporation of India Limited,
Through its Vice President Operations Centaur Hotel,
IGI, Airport, New Delhi-110037.
2. Managing Director, Hotel Corporation of India Limited,
B Block, Rajive Gandhi Bhawan,
Ministry of Civil Aviation Govt. of India, New Delhi-110003.
3. Senior Manager, Accounts, Hotel Corporation of India Limited,
Centaur Lake View Hotel, Cheshmashahi, Srinagar (J&K) ...Respondents

APPEARANCES :

For the workman	-	Sh. Arun Batra, Adv.
For the management	-	Sh. V.P. Gaur, Adv.

AWARD

Passed on : 29.11.2016

Central Government vide Notification No. No.L-42011/27/2014-IR(DU) Dated 09.06.2014, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of Centaur Lake view Hotel, Sri Nagar(J&K)an unit of Hotel Corporation of India(A Central Govt., Public Sector Undertaking Ministry of Civil Aviation) in denying the wage revisions to its employees w.e.f. 1.1.2007 is legal and justified? If not, what relief the workman are entitled to and from which date?"

In response to the notice, the members of Centaur Hotel Employees Union(hereinafter called "workman") through its President submitted statement of claim, pleading that respondent-management is a public limited subsidiary company of Air India Limited and is an 'Industry'. The workmen served a charter of demand for revision of wages etc. and through a bilateral negotiation which started on 15.3.2007; the parties signed a memorandum of understanding and it was agreed that the operation of settlement shall come into force w.e.f. 1.1.2002 to 31.12.2006 and remain in force until such time the same is terminated by either of the parties. That the workman made many representations to the management for upward wage revision as the previous wage revision has ended on 31.12.2006 and made a representation to the Hon'ble Labour Ministry on 31.8.2013(Annexure W2) and to the Hon'ble Prime Minister of India on 05.12.2013(Annexure W3). But the management did not revise the pay of the workmen. Hence the workmen demanded wage revision w.e.f. 1.1.2007.

Respondent-management filed written statement, admitting the averments and pleaded that the workmen did not serve two months notice upon the management before raising a fresh charter of demand because it was agreed upon between the parties that no party will raise demand unless earlier settlement is terminated by any party under Section 19(2) of the Industrial Disputes Act 1947; and as such the present claim is not maintainable. That the respondent-management is incurring heavy losses for the last ten years and it did not revise the pay scales of its employees working at Mumbai and Delhi and financial burden cannot be imposed on it.

Parties were given opportunities to lead their evidence.

In support of his case, Javed Ahmed Pandit and Nazir Ahmed Wani were examined on behalf of the workmen, who filed their respective affidavits supporting the case of the workmen. Sh. Nazir Ahmed Wani further placed on record the charter of demand dated 17.06.2008(Annexure W-A).

On the other hand, the respondent-management has examined Sh. Istivaq Hussain Khan, who filed his affidavit Ex.R1, supporting the case of the management.

The admitted facts, are that, the workmen are members of Centaur Hotel Employees Union(Regd.),Srinagar. The workmen has agitated the matter for revision of pay vide letter dated 1.1.2002 and by mutual understanding, a memorandum was written vide which the wages were enhanced, which is as follow:-

"This Memorandum of Understanding will be presented before the office of the Labour Commissioner for recording a Settlement which shall come into force w.e.f. 1.1.2002 to 31.12.2006 for a period of 5 years and shall remain in force after until such time the same is terminated by either of the parties under the provisions of sub Section 2 of Section 19 of the Industrial disputes Act, 1947. It is further agreed that the Union or the employees shall not raise any demand of any nature whatsoever entailing additional financial burden on the Company during the full period of operations of the settlement save and except payment of annual bonus as per law."

This memorandum of understanding is admitted by the parties and it is also admitted that the settlement shall remain in force w.e.f. 1.1.2002 to 31.12.2006 and shall remain in force thereafter until such time the same is terminated by either of the parties under the provisions of sub-Section 2 of Section 19 of the Industrial Disputes Act, 1947.

Sub-Section 2 of Section 19 of the Act read as follow:-

"Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement."

Thus, the mutual settlement as entered into between the parties, has to remain in force during the period as agreed upon between the parties until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given.

Thus, the settlement which was arrived between the parties in the year 2007 and a new pay scale was fixed after 15.3.2007, had to remain in force until notice as required by law is served on the management.

It is not disputed that the government revise pay of its employees from time to time for the reasons that the cost of living rises with passage of time. Wages in the present case were revised in the year 2007 for the period from 1.1.2002 to 31.12.2006 and since then the prices have arisen many times. Being so workmen are entitled to revision of pay and the same cannot be refused simply on the ground that management is under financial loss.

Though, it is not specifically pleaded when, the settlement entered into between the parties in the year 2007, was terminated by the Union, but at the time of the examination of Sh. Nazir Ahmad Wani a charter of demand dated 17.06.2008 was produced without any objection and thus, the same is to be read into the evidence. As per the charter of demand, the workmen agitated the matter for the revision of wages on 17.6.2008, meaning thereby the workmen terminated the earlier settlement entered into in the year 2007 vide notice dated 17.06.2008. In view of the provisions of Section 19(2) of the Act, the workman can claim revision of pay only after the expiry of two months from the date of notice and taking the charter of the demand dated 17.06.2008 as notice for terminating the settlement, the workmen are entitled to revision of pay only from 17.08.2008.

Thus, the workmen are entitled to revision of pay w.e.f. 17.08.2008 and not w.e.f. 1.1.2007 and the respondent-management shall revise the pay of the workmen by taking into consideration all the circumstances and the existing formulas.

In result, the reference is answered in favour of the workmen, holding that the workmen are entitled to wage revision w.e.f. 17.08.2008 and management would revise the pay expeditiously as soon as possible and probably within six months of the publication of the award. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2017

का.आ. 567.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाकघर अधीक्षक, मांड्या डिवीजन व अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 3/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.12.2016 को प्राप्त हआ था।

[सं. एल-40012/118/2013-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 567.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case CR No. 3/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in Annexure, in the industrial dispute between the employers in relation to the Superintendent of Post Office, Mandya Division and their workman, which was received by the Central Government on 15.12.2016.

[No. L-40012/118/2013-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT, BANGALORE

DATED : 8th NOVEMBER, 2016

PRESENT : Shri V. S. RAVI, Presiding Officer

C R No. 3/2014

I Party

Shri H.B.Shivanna,
S/o Shri H.Bore Gowda,
Ex. B.P.M Nittur Halasahalli,
Malawalli Taluk
Karnataka – 571421

II Party

The Superintendent of Post Office,
Post Office, Mandya Division,
Mandya District – 571401

AWARD

1. The Central Government vide Order No.L-40012/118/2013-IR(DU) dated 27.02.2014 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEME

“Whether the action of the management of Superintendent of Post Office in dismissing the services of Shri H.B.Shivanna is correct? If not, to what relief is he entitled to?”

2. The brief details stated in the claim statement are as follows:-

The I Party has worked as the confirmed Branch Post Master at Nittur Halasahalli Post Office under the II Party, and he has got a large unblemished service. The I Party has denied the charges and also requested for an open enquiry. The Enquiry Officer has filed his final report by holding that the charges are not proved. The Disciplinary Authority has not agreed with the said report and he has issued a show cause notice to the I Party to file his objection to his opinion. The I Party has filed the reply and requested that the Enquiry Officer’s report may be accepted and the benefits of reinstatement may be given to him, as per law. Further, the Superintendent of Post Office has imposed the penalty of removal of service and the Authorities have also rejected the appeal filed by the I Party and confirmed the said penalty. The Enquiry Officer has come to the fair and judicious decision by holding that the I Party is not guilty of any of the charges framed against him. The Respondent has stated, in the report, to impose the penalty of removal from

service. Further, the documents and statements have been accepted, as true, in the enquiry, and hence, they cannot be relied by the Respondent. The basic procedure has been ignored by the Respondent. The Respondent has failed to appreciate the honest work done by the Enquiry Officer, who is appointed by the Respondent only. Hence the said order of the Disciplinary Authority is liable to be rejected.

3. In the circumstances the I Party has prayed to issue necessary order, to set aside and quash the impugned order bearing No. F3-1/02-02 dated 23.12.2005 and memo No. SK/STA/9-3/14/06/1 dated 03.08.2006 and also memo dated 07.05.2007 issued by the Respondents, under No. SK/STA/9-5/10/06/II, in the interest of justice and equity.

4. On perusal of records, it is seen that the RPAD notice has been sent to the II Party and served, postal acknowledgment, regarding the service of RPAD notice issued to II Party, has been received by this Tribunal. Still, no representation has been made by II Party and II Party also called absent. In such circumstances, the matter is posted for passing Award, after the perusal of entire records brought on record.

5. The crucial point that arises for consideration in the present matter is as follows:-

‘Whether the II Party/Management of Superintendent of Post Office is justified in dismissing the services of Shri H.B. Shivanna ? If not, to what relief, he is entitled to?’

6. In order to establish the submissions made on behalf of the I party, the I party has filed Examination in chief by way of Affidavit. dated 28.10.2016 along with Ex-W1 to Ex-W10. Further, the details of Exhibits are furnished herein below:

Sl. No	Description	Exhibit
1.	Memo of charges dated 25.03.2003	Exhibit W-1
2.	Letter No. F3-1/02-03 dated 22.11.2005	Exhibit W-2
3.	Inquiry Officer report	Exhibit W-3
4.	Representation of I party dated 12.12.2015	Exhibit W-4
5.	Memo No. F3-1/02-03 dated 23.12.2005	Exhibit W-5
6.	Appeal against the orders passed as per Ex A-5	Exhibit W-6
7.	Memo No. SK/STA/9-3/14/6/1 Dated 03.08.2006	Exhibit W-7
8.	Petition to Post Master General	Exhibit W-8
9.	Memo No. SK/STA/9-5/10/06/11 dated 07.05.2007	Exhibit W-9
10.	Petition to Hon’ble President dated 06.07.2007	Exhibit W-10

7. In the evidence also the I Party has clearly stated the he has submitted his reply to Ex.W-2 letter issued to him by the Disciplinary Authority as per Ex.W-4 and the report of the Enquiry Officer appointed by the Respondent is based on true facts and materials that have been produced, during the course of the proceedings of the enquiry. On a perusal of the said Exhibits it is seen that I Party has sent the relevant reply to the Disciplinary Authority. However, without any valid reasons and also without following the proper principles of Law, the Disciplinary Authority has imposed penalty of removal from service as per the orders passed in 23.05.2015, and even the appeal and review petition, filed by the I Party have been rejected by the concerned Authorities. The Disciplinary Authority has not furnished any appropriate reasons for differing with the view of the Enquiry Officer and also, imposed penalty of Dismissal from service, of the I Party. Further, the II party has not established the dismissal of the service of the I party has been ordered, after following the appropriate Rules and regulations.

8. Further in Ex.W-2 the II party herein, has clearly admitted that, as per Ex.A3, Inquiry Officer has concluded that the charges are not proved as against the I party, herein. Further it is seen that as per Ex.W-1 Articles of the charge, has been issued to the II party. However, it is seen that the II party has not followed the principles of natural justice and

the doctrine of fairness and reasonableness to order for the removal from service, the I party herein. Even, in the appeal filed to the Director of Postal Services, the I party has clearly stated that already, enquiry has been ordered by the Disciplinary Authority and also, conclusion has been arrived in the Enquiry. Further, in Ex-W7, the Director of Post Office has admitted that the Inquiry Authority in his report dated 25.10.2005 has held that all the charges are not proved. Though the Disciplinary Authority has disagreed with the said Report of the Inquiry Authority, it is seen that the said order has not been passed in accordance with the Law. Even the request of the reinstatement of the I Party to the Post Master General as per the Ex.W-8, has been dismissed without any valid reasons. Hence, the I Party has requested to answer the points of dispute in favour of the I Party and to direct the II Party to reinstate him, with all consequential benefits, like full back wages, continuity of service and all monetary benefits, in the interest of equity and justice. On a careful scrutiny of the entire material available on records, it is found that there is serious, sufficient and significant force in the said submissions made on behalf of the learned counsel for the I party, namely, Sri S.K. Mohiyuddin and Sri. Mohamed Ataur Rahman.

9. Further, I party has established his submissions, in accordance with law, for succeeding in the present matter. However, the II party management has failed to prove the charge of misconduct and also even failed to appear before this Court. The I party has prayed to pass award in this matter granting him full relief as prayed in the claim statement and all appropriate orders, as may deem fit, in the facts and circumstance of the case, since the second party/ managements have not made out any case against him and also, refusing to even to appear before this Court, even after the receipt of the Registered Post and also delaying the matter and thus, causing, I party, an irreparable loss and mental agony. Above all, It is seen that the II party has failed to prove the alleged misconduct committed by the I party, though the sufficient opportunity has been given to II party. In such circumstances, it is seen that the II party has failed to establish, the misconduct committed by I party.

10. Further, the learned counsel appearing for the I party has urged that the submissions of I party in the claim statement and evidence has been actually left, uncontroverted and unchallenged by the II party and hence, the action of the management has to be held as illegal and unjustified. Further, the submission made on behalf of I party in the claim statement, as being not controverted or assailed by the II party in an appropriate manner known to law, this court has no reason to disbelieve the submissions, made on behalf of the I party in the claim statement, which is also established in accordance with law. Further, II party has not taken any proper interest to oppose the claim statement of the I party. In the above mentioned circumstances, the II party has failed to substantiate its action of imposing the penalty of removal from service, of the I party. The II party has not appeared before this Tribunal, even after, the registered RPAD notice has been sent to the II party and also received by the II party. This speaks, volumes about the attitude of the II party. Further the II party has not produced any acceptable and relevant records to establish that I party has been dismissed as per the rules and also, in accordance with law. Certainly, the rights of the I party, guaranteed under Articles 14, 16 and 21 of the Constitution of India and directive principles of Constitution have been violated by the II party. Further, this court, after considering materials available on record and considering the attitude of the II party, the Court is able to come to a conclusion that the I party is entitled to get relief as as prayed for, in the claim statement. Futher, as per the law laid down by the Hon'ble Apex Court reported in AIR 1968 SC 1413, "Even if the burden of proof does not lie on a party the court may draw an adverse inference if he withholds important documents in his possession which can throw light on the facts in issue in controversy and to rely upon the abstract doctrine of onus of proof." Further, no tenable submission has been made by the II party as to why the I party is not entitled to get relief as prayed for in the claim statement. Certainly, the II party has taken the Court proceedings, lightly and II party is also not justified in terminating the service of the I party, without following the due process of Law.

For the above mentioned facts and circumstances, it is found that the I party, is entitled to get relief as prayed for in the claim statement. Hence, the following award is passed by this Court.

AWARD

The II party/management is not justified in imposing the punishment of removal of I party/Sh H.B.Shivanna, from service and also, the I party is entitled for reinstatement, continuity of service and other consequential benefits that he would have received in the absence of the impugned penalty of removal from service.

(Dictated, transcribed, corrected and signed by me on 8th November, 2016)

V. S. RAVI, Presiding Officer

नई दिल्ली, 28 फरवरी, 2017

का.आ. 568.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक एम एस पार्वती मिल्स/कोल्लम व अन्य एवं उनके कर्मचारी, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, एरनाकुलम के पंचाट (संदर्भ संख्या 21/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/11/2011-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 568.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 21/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Eranakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, M/s Parvathy Mills, Kollam and their workman, which was received by the Central Government on 16.11.2016.

[No. L-42011/11/2011-IR (DU)]

MANJIT SINGH NAYAR, Dy.Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Thursday the 20th day of October, 2016/28th Asvina, 1938)

ID 21/2011

Workman	:	Shri. P. Sukumaran Nair, Uthram, No.75, Samridhi Nagar, Asramam P.O., Kollam (Kerala) – 691002.
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(in Person)

Management	:	The General Manager, M/s. Parvathy Mills, P. B. No.1, Kollam (Kerala) – 691001.
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By Adv. Shri. Ajith. S. Nair

This case coming up for final hearing on 23.09.2016 and this Tribunal-cum-Labour Court on 20.10.2016 passed the following:

A W A R D

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) the Central Government referred the following dispute before this Tribunal for adjudication.

2. The dispute is:

“Whether the action of the management of M/s. Parvathi Mills, Kollam in superannuating Shri P. Sukumaran Nair from service on 31/01/2007 at the age of 58 years instead of at 60 years on 31/01/2009 in spite of he being in the service of the Mill prior to 31/03/1974 is legal and justified? What relief the workman is entitled to?”

3. After receipt of the reference Order No.L-42011/11/2011-IR(DU) dated 03.06.2011, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear, submit their pleadings and produce documents to substantiate their respective contentions. The workman appeared in person and submitted his case. The management entered appearance through counsel and submitted their case.

4. The contentions in the claim statement filed by the workman in brief are as follows:

The Conciliation Officer i.e., the Assistant Labour Commissioner(Central), Trivandrum has passed a failure report dated 18.12.2010, without considering his contentions and supporting documents to substantiate his age of superannuation from the management company. From November, 1971 the workman was employed in the Parvathy Mills, Kollam. At the time of closure of the Parvathy Mill, a sum of ₹80/- was paid as advance salary to the workman during 1971-1972 and this amount was recovered in the year 2007 from the gratuity payable to the workman. Therefore, it is evident that the workman was in the service of the mill right from November, 1971. Even though the workman requested the management to produce documents evidencing the payment of salary advance to the workman during 1971-72, the management failed to produce the same.

5. Two former employees namely Shri. Sadasivan Nair and Shri Aiyappan Pillai were unlawfully terminated from the management company and in relation to the same there was a case pending before the Hon'ble High Court of Kerala during August/September, 2007. In that proceedings the Hon'ble High Court set aside the dismissal order against those employees. The workman has requested the management to cause production of those documents.

6. As per the documents received by the workman under the Right to Information Act from the ESI local office, Kollam it can be seen that ESI benefits were given to the workman from 01.04.1972. The workman is enjoying the ESI benefits from 01.04.1972. The management issued an order evidencing that the workman was employed as a typist in the company from 01.04.1972 and on the basis of which he was enjoying the ESI benefits. The order passed by the Assistant Labour Commissioner is without considering this material aspect regarding the date of appointment of the workman as typist in the management company.

7. The workman has obtained salary certificates dated 07.02.2002 and 20.08.2003, from the management. In those salary certificates the date of superannuation of the workman is clearly certified as 31.01.2009. Therefore the workman received the superannuation notice and the papers relating to the payment of gratuity dated 29.12.2006 issued by the management under protest. From the documents provided to the workman it can be seen that his date of superannuation is 31.01.2009. Even though the workman pointed out the mistakes before the management, they have not considered the same under one pretext or other so as to deny the benefit due to the workman. Moreover the subordinate officer working in the management company was well aware that the claim of the workman is true and proper and there was an attempt for conciliation in this matter. The copy of the portion of the service register produced by the management is a fabricated document, in which the date of joining is wrongly written as August, 1974 instead of November, 1971. The management failed to produce the original service register in spite of repeated requests by the workman.

8. Therefore the workman has requested to pass an award directing the management to pay the salary and other benefits due from January, 2007 to January, 2009 and other incidental reliefs to which he is entitled as per law.

9. On 14.10.2011 the workman filed additional statement reiterating the contentions in the claim statement filed on 16.09.2011. He has requested to uphold his contentions and pass an award in his favour.

10. The contentions in the written statement filed by the management in brief are as follows:-

The management – M/s. Parvathy Mills, Kollam is a unit of National Textiles Corporation which is a Government of India undertaking. The mill is a sick unit under BIFR. The revival packages for the mill is proved to be a failure and it was not functioning properly. The National Textiles Corporation took over the sick textiles units as per the Sick Textiles Undertaking (Nationalisation Act), 1974. The management mill was taken over by the National Textiles Corporation as per this Act.

11. The workman Shri. P. Sukumaran Nair was an employee of the management mill. He was superannuated from the services of the mill on 31.01.2007 after attaining the age of 58 years, on completion of the age of superannuation. His terminal benefits have also been settled. He is not a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947. Therefore his claim is not maintainable and the reference is bad in law.

12. Without prejudice to the contentions raised above, the management has stated that the dispute referred is not an industrial dispute which can be adjudicated before this Tribunal. The determination of the age of superannuation is not an industrial dispute as defined under Section 2A. Apart from that in relation to the age of superannuation of the staff in the management mill there is an award passed under Section 10A of the Industrial Disputes Act, 1947. That

award was published in the Official Gazette on 21.01.1994, in which it is clearly stated that the age of superannuation for the staff members who joined the services of the management on 01.08.1974 is 58 years. The workman attained the age of 58 years as on 31.01.2007 and he was superannuated on that day.

13. The workman had filed gratuity application vide G.A. No.7/2008 before the Assistant Labour Commissioner(Central). In that application he claimed that he joined the services in November, 1971 and that his joining date is not 01.08.1974. The authority found that his claim is incorrect and an order to that effect was passed. Against that order he preferred an appeal before the Regional Labour Commissioner (Central) as G.A.4/2010 and it was ended in dismissal. The findings in the above matters have become final and conclusive regarding his date of joining. Hence the same issue cannot be readjudicated in this proceedings.

14. The trade unions have raised a dispute regarding the age of superannuation and it came up for consideration before the Industrial Tribunal, Kollam in ID 20/2008. The management preferred WP(C) No.10852/2010 before the Hon'ble High Court and the Hon'ble High Court was pleased to stay the proceedings in ID 20/2008. There is no basis for the claim put forward by the workman.

15. The claim of the workman on the basis of the recovery of closure advance and his enrollment in ESI has no relevance to his claim for continuance in service after the date of superannuation. The National Textiles Corporation took over the mill only in the year 1974. At that time the mill was run by a private management and it was remaining closed. Therefore an advance was given to the workers of the private mill and it was recoverable and the management recovered the same from the terminal benefits of the employees. The closure advance was given to all the workers in the private mills including casual, temporary, badali etc. Therefore the payment of closure advance cannot be accepted as the basis for entry into the services of the mill. So also ESI is payable to all the employees and the record thereof cannot be taken as a valid piece of evidence to ascertain the date of entry of an employee in the service.

16. As per the arbitration award passed in the year 1993, which was published in the Official Gazette on 21.01.1994 the names of the workmen who were employed in the mill prior to 1974 were published. It was so published on the basis of the list of workmen submitted by the trade union. The name of the workman involved in this reference was not included in that list. Therefore his claim is not sustainable for the service prior to 1974. The claim put forward by the workman is not sustainable either in law or on facts. His contentions in the claim statement and additional statement filed before this Court are not sustainable. Therefore the management has requested to disallow the claim of the workman.

17. After filing written statement by the management the workman filed rejoinder/statement. In that the workman has stated that he was not a member of any of the trade union and that the claim of the management against his contentions is not sustainable. He has further stated that the arbitration award published in the Gazette dated 21.01.1994 is not valid and binding on him.

18. After affording sufficient opportunity to the parties to take steps and production of documents, the matter was posted for adducing evidence if any. The workman tendered evidence as WW1 and Exts.W1 to W10 are the documents marked on his behalf. The management has not adduced any oral evidence. Exts.M1 and M2 are the documents marked on behalf of the management. Heard the workman who appeared in person and the counsel for the management. After that the management counsel filed a written argument also. Thereafter the workman filed a written argument note and the matter was heard in detail.

19. The points arising for consideration are:

- “(i) Whether the workman Shri. P. Sukumaran Nair was employed in M/s.Parvathy Mill, Kollam as a permanent employee from November, 1971 as contended by him?**

- “(ii) Whether the workman Shri. P. Sukumaran Nair was employed in the management mill as a permanent employee prior to 31.03.1974?**

- “(iii) Whether the workman is entitled to continue in the service of the management mill till 31.01.2009 as contended by him?**

- “(iv) Whether the action of the management mill in superannuating the workman from service on 31.01.2007 is just and proper?**

- “(v) To what relief the workman is entitled to?”**

20. Point Nos.(i) to (iv):- The workman involved in this reference Shri. P. Sukumaran Nair was an employee in the management mill. His contention is that he was employed in the management mill i.e., M/s.Parvathy Mills, Kollam, from November, 1971 and therefore his premature superannuation by the management on 31.01.2007 is unjust and illegal. He is asserting his claim for the reason that the management had taken a decision that those employees who were in service prior to 1974 can be superannuated only on attaining the age of 60 years. To substantiate his plea the workman has stated that at the time of closure of M/s.Parvathy Mills during 1971-1972 he received an advance salary of ₹80/- . That amount was recovered in the year 2007 from the gratuity payable to him. According to the workman this aspect will reveal that he was employed in the management mill prior to 1974. Secondly he has stated that he was enjoying the ESI benefits from 01.04.1972 and the document obtained from the ESI local office, Kollam will reveal this aspect. According to the workman he received the ESI benefit from the ESI department from 01.04.1972 for the reason that he was employed in the management mill from 01.04.1972. Apart from this the workman has stated that in the two salary certificates dated 07.02.2002 and 20.08.2003 issued by the management it can be seen that his date of superannuation is noted as 31.01.2009 and as such he shall not be superannuated on 31.01.2007. He would further state that he received the gratuity amount and other benefits under protest and hence the claim of the management that his date of superannuation was on 31.01.2007 cannot be accepted as true and correct.

21. The workman has stated that in the salary certificates issued by the management his date of superannuation is noted as 31.01.2009 and it was issued on the basis of the entries in the records available with them and hence he shall not be superannuated on 31.01.2007. Therefore he has requested to direct the management to pay the salary and other benefits due to him from January, 2007 to January, 2009 and incidental reliefs thereof.

22. The management has contended that the National Textiles Corporation took over the sick industrial unit M/s.Parvathy Mills in the year 1974. They would further state that the claim of the workman is not maintainable for the reason that he has already been superannuated on 31.01.2007 and that the determination of the age of superannuation cannot be an industrial dispute as defined under the Industrial Disputes Act. It is stated that in an earlier proceedings an award was published on 21.01.1994 and as per that award the age of superannuation of the staff members who joined the service on or after 01.04.1974 will be on completion of 58 years of age. The management has stated that the workman joined the services on 01.08.1974 as per the records maintained by them and he attained the age of superannuation on 31.01.2007 and accordingly he was superannuated on that day.

23. The management has stated that the workman preferred gratuity application before the Assistant Labour Commissioner (Central) as G.A. No.7/2008, in which he has raised the contention that he joined the services in November, 1971 and not on 01.08.1974. The authority found that his claim is incorrect and hence it was rejected. The appeal preferred against the decision in that proceeding was dismissed by the appellate authority. The decision in that proceeding has become final and conclusive and it is valid and binding on the workman. The management has raised the plea that the recovery of closure advance and enrollment in ESI benefits prior to 1974 will not be a ground to claim that the workman was in service/continued in service of the management mill prior to 1974. The management has stated that there was a dispute regarding the superannuation date and it was referred for arbitration and an award was passed in the year 1993 which was published in the Official Gazette on 21.01.1994. In that award the name of the workers who were in the service of the mill prior to 1974 were notified and the name of the workman was not there in that arbitration award which was published in the Official Gazette. Therefore the management has stated that the claim of the workman is not sustainable.

24. While examined as WW1 the workman has stated that the management willfully failed to produce his attendance details prior to 1974. He is relying on the Exts.W1 to W10 documents to substantiate his plea that he was in the service of the mill prior to 1974. Ext.W1 is copy of the proceedings regarding payment of gratuity to the workman. As per the entries in that document a sum of ₹80/- is deducted from the gratuity amount payable to the workman towards closure advance on 1972. Ext.W3 is copy of a document issued from ESI Corporation, in which the date of entry of service of the workman is noted as 01.04.1972. Exts.W4 and W5 are copy of the salary certificates dated 07.02.2002 and 20.08.2003 respectively. In Ext.W4 document his date of retirement is noted as 31.01.2009. In Ext.W5 also his date of retirement is noted as 31.01.2009. In Ext.W5 the date of entry in service is noted as 01.08.1974. Ext.W6 is the letter dated 29.12.2006 issued by the management to the workman to the effect that he will be relieved from the services of the mill by the close of working hours of 31.01.2007. Ext.W9 is copy of the reply received by the workman under the RTI Act, in which the management has stated that they could not retrieve any records evidencing the recording of the attendance for the period from November, 1971 to August, 1974. The workman is relying on the entries in the Exts.W1, W3, W4 and W5 to substantiate his plea that he was employed in the management mill prior to 01.08.1974.

25. The contention of the management is that at the time of taking over of the sick unit M/s.Parvathi Mills in the year 1974 they paid advance salary to all categories of workers including casual, temporary and badalis and hence the payment of closure advance cannot be treated as an entry into the mill service. So also the admission to ESI benefits cannot be accepted as the record evidencing the permanent service of the employee in the management mill. It is stated

that the ESI benefit is available to all the employees and the entry in that document cannot be accepted as the date of entry into the service of the management.

26. While examined as WW1 the workman has stated he was superannuated from the management mill on 31.01.2007 on completing the age of 58 years. He has further stated that there is no document available with him to prove that he joined the regular service in the management mill prior to 01.04.1974. The management has produced an office order dated 05.08.1974 in which it is stated that the workman Shri. P. Sukumaran Nair, "paid apprentice" is posted as an Assistant Typist with a basic of ₹50/- in Grade III plus DA and Interim Relief w.e.f.01.08.1974. It is further stated in that document that he will be on probation for a period of one year and in addition to the typing work, he will also attend the despatch and filing work. During cross examination this document was put to the workman. He has denied the receipt of that document. Ext.M1 is the Order in the Gratuity Application No.07/2008 passed by the Assistant Labour Commissioner (Central), Trivandrum. Ext.M2 is the Order passed by the Appellate Authority under the Payment of Gratuity Act. The claim of the workman that he was in service of the mill prior to 01.08.1974 was disallowed by the authorities under the Payment of Gratuity Act.

27. Even though the workman has contended that he was in regular service of the management mill from November, 1971 there is no acceptable evidence to substantiate the same. The entries in Exts.W3, W4 and W5 documents are not sufficient enough to arrive at a conclusion regarding the date of entry on regular service of the workman in the management mill. In the absence of sufficient proof to prove the date of entry of the workman in the regular service of the management mill his claim that he was in permanent service of the management mill prior to 1974 cannot be accepted as true and correct. The workman has stated that the mill was closed in January, 1972 and it was reopened in February, 1972 and at that time one month salary i.e., ₹80/- was paid as advance salary to him. On that basis he is claiming that he was in continuous service of the mill from November, 1971. M/s.National Textiles Corporation took over the sick unit M/s.Parvathi Mills in the year 1974. The entries in the salary certificate and ESI card are not sufficient enough to arrive at conclusion that the workman was in regular service of M/s.Parvathy Mills from November, 1971. The management has stated that at the time of resuming the functioning of the mill in February, 1972, advance salary of one month was paid to all employees i.e., casual, temporary and badalis and the payment of advance salary cannot be a ground to claim that the workman was in regular service of the mill from November, 1971. The document produced by the management dated 05.08.1974 reveals that the workman was employed as a "paid apprentice" prior to 01.08.1974. Apprentices cannot be treated as permanent employees under the management mill.

28. The learned counsel for the management referred to the Ruling reported in *2016-I-LLJ-394(Ker) LNIND 2015 KER 25391 – Ramakrishnan T. N. Vs. National Textiles Corporation Limited and Others.* In that Ruling the Hon'ble High Court of Kerala has held that "*Petitioners produced list published by Respondent No.2 wherein it shows that Petitioners entered service after nationalization – ESI cards placed by Petitioners does not evidence Petitioner's continuous service till nationalization – Even a contract engagement for a single day would be eligible to be covered under Act, 1952 and Act, 1948 – Incumbent upon Petitioner to prove that Petitioner was in continuous service before nationalization, same would only make Petitioners eligible for exception – Exception clause not applicable to contract employment before date of nationalisation – Documents reveal that Petitioners accepted entire VRS on basis of date of appointment after nationalisation – Petitioners admitted particular date as date of appointment and retired voluntarily – After severance, Petitioners seek additional benefits contrary to their own admission, same cannot be permitted – Petition dismissed.*"

29. In view of the dictum laid down in the decision referred above it is the duty of the workman to substantiate his plea that he was in the regular service of M/s.Parvathy Mills/management mill prior to 01.08.1974. The workman involved in this reference failed to prove that he was in regular service of the management mill prior to 01.08.1974. In such circumstance he is not entitled to continue in service till attaining the age of 60 years. It follows that the decision of the management to superannuate him from service on attaining the age of 58 years on 31.01.2007 is just, legal and proper. Therefore the points for consideration are answered against the workman and in favour of the management.

30. Point No.(v):- In view of the finding on Point Nos.(i) to (iv), the workman is not entitled to the relief claimed. The point is answered accordingly.

31. In the result an award is passed holding that the workman Shri. P. Sukumaran Nair is not entitled to any relief as per this reference.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 20th day of October, 2016.

SASIDHARAN K, Presiding Officer

APPENDIX

Witness for the workman

WW1

11.04.2016

Shri P. Sukumaran Nair

Witness for the management

NIL

Exhibits for the workman

W1 - True copy of the Payment of Gratuity certificate dated NIL issued by the management to the workman.

W2 - True copy of the reply letter No.48.2.18.14.3.2006 Q dated 05.07.2010 issued by the Branch Manager(GR.I), ESI Corporation, Kollam to the workman.

W3 - True copy of the identity card issued by the ESI Corporation to the workman.

W4 - True copy of the Salary Certificate dated 07.02.2002 issued by the management to the workman.

W5 - True copy of the Salary Certificate dated 20.08.2003 issued by the management to the workman.

W6 - True copy of the letter No.PV/Pers/2006-07/3268 dated 29.12.2006 issued by the General Manager, Parvathi Mills, Kollam to the workman.

W7 - True copy of the relevant page of Payment of Gratuity Register showing the name of the workman maintained at Parvathi Mills, Quilon

W8 - True copy of the a complaint letter dated 22.01.2007 addressed to the General Manager (Personnel), NTC (TN & P) Ltd., Coimbatore – 9 by the workman.

W9 - True copy of the reply letter No.SECL/RTI/09-10/0233 dated 02.09.2010 by the Company Secretary/CPIO, National Textile Corporation Limited, Southern Regional Office, Coimbatore to the workman.

W10 - Copy of the page Nos.23 and 24 of the Souvenir of the management mill published in 1984.

Exhibits for the management

M1 - Decision in application No.07/2008 dated 25.02.2010 filed before the Controlling Authority and Assistant Labour Commissioner(Central), Trivandrum under the Payment of Gratuity Act, 1972.

M2 - Decision in application No.39(4)/2010-B.1 dated 30.05.2011 filed before the Appellate Authority and Regional Labour Commissioner(Central), Cochin under the Payment of Gratuity Act, 1972.

नई दिल्ली, 28 फरवरी, 2017

का.आ. 569.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंध निदेशक एम एस कर्नाटक एंटीबायोटिक्स और फार्मास्यूटिकल्स लिमिटेड, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बोच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एरनाकुलम के पंचाट (संदर्भ संख्या 39/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/104/2015-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 569.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 39/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Eranakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the Managing Director, M/s Karnataka Antibiotics and Pharmaceuticals Ltd., and their workman, which was received by the Central Government on 18.11.2016.

[No. L-42011/104/2015-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM**

Present : Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Tuesday the 25th day of October, 2016/03rd Kartika, 1938)

ID 39/2015

Union : The District Secretary,
Kerala Medical Sales Representatives Association (CITU),
Hope Villa, T M 2/918, Talap,
Kannur (Kerala) – 670002.

By Adv. Shri. S. Krishna Moorthy

Management : The Managing Director,
M/s. Karnataka Antibiotics and Pharmaceuticals Ltd.,
Dr. Rajkumar road, 1st Block, Rajaji Nagar,
Bangalore - 560010.

By Adv. Shri. S. Prasanth

This case coming up for final hearing on 25.10.2016 and this Tribunal-cum-Labour Court on the same day passed the following:

A W A R D

In exercise of the power conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) the Central Government referred the following dispute before this Tribunal for adjudication.

2. The dispute referred for adjudication is:

'Whether the action of the management of M/s. Karnataka Antibiotics and Pharmaceuticals Ltd. in transferring Shri Nikesh Kumar to Eluru in Andhra Pradesh amounts to unfair labour practice and justifiable? If not to what relief the Union/workman is entitled to get?'

3. After receipt of the reference order No.L-42011/104/2015-IR(DU) dated 11.09.2015, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear, submit their pleadings and produce documents to substantiate their respective contentions.

4. On receipt of the summons, the parties entered appearance through counsel and submitted their pleadings.

5. The union filed claim statement in support of the case relating to the workman Shri. K. Nikesh Kumar, who was employed under the management.

6. There the management filed written statement disputing the claim of the workman involved in this reference.

7. After affording sufficient opportunity to the parties to take steps and for production of documents, the matter was posted for evidence. While so the learned counsel for the union filed a statement/application to the effect that the workman involved in this reference and the union representing the workman are not intending to proceed with the present industrial dispute and requested to drop all further proceedings and to treat the claim as withdrawn. Notice of this application was served on the counsel for the management. Heard the learned counsel for the union and that of the management.

8. In view of the request made by the learned counsel for the union that the workman involved in this reference as well as the union representing the workman are not interested to proceed further with the industrial dispute and to treat the claim as withdrawn; it is held that there is no subsisting industrial dispute to be adjudicated as per the reference.

9. In the result an award is passed holding that there is ‘no subsisting industrial dispute’ between the union and the management to be adjudicated as per this reference. The statement/application filed by the counsel for the union shall form part of this Award.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 25th day of October, 2016.

SASIDHARAN K, Presiding Officer

APPENDIX - NIL

**BEFORE THE HON'BLE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT ERNAKULAM**

INSUSTRIAL DISPUTE No. 39/2015

Between :

District Secretary, KMSRA., Kannur	:	Petitioner Union
Managing Director, KAPL., Bangalore	:	Respondent Management

APPLICATION FILED ON BEHALF OF THE PETITIONER UNION :

As the workman involved in the dispute and the trade union representing the workman have both informed that they do not wish to further proceed with the present Industrial Dispute, It is humbly prayed that this Hon'ble Industiral Tribunal cum Labour Court may be pleased to kindly drop all further proceedings in the dispute, treat the claim as withdrawn and pass an award accordingly.

Dated this the 25th Day of October, 2016.

Counsel for the Petitioner

नई दिल्ली, 28 फरवरी, 2017

का.आ. 570.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक इंस्ट्रूमेंटेशन लिमिटेड और उनकी कर्मकार, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 12/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/234/2015-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 570.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 12/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Eranakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Instrumentation Limited and their workman, which was received by the Central Government on 14.12.2016.

[No. L-42011/234/2015-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIALTRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM**

Present : Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Friday the 25th day of November, 2016/04th Agrahayana, 1938)

ID 12/2016

Unions : 1. The General Secretary,
Instrumentation Workers Union (CITU),
Kanjikode West,
Palakkad – 678623.

(ex-parte)

2. The General Secretary,
Instrumentation Employees Union (INTUC),
Kanjikode West,
Palakkad – 678623.

(ex-parte)

Management : The General Manager,
Instrumentation Limited,
Kanjikode,
Palakkad – 678623.

By M/s. Menon & Menon

This case coming up for final hearing on 24.11.2016 and this Tribunal-cum-Labour Court on 25.11.2016 passed the following:

A W A R D

In exercise of the power conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) the Central Government referred the following dispute before this Tribunal for adjudication.

2. The dispute is:

“Whether the action of the management of Instrumentation Ltd. unilaterally withdrawing the 5% Special Accommodation Advance granted to the employees of Palakkad unit is justifiable? If not, what relief they are entitled to get?”

3. After receipt of the reference order No.L-42011/234/2015-IR(DU) dated 17.02.2016, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear, submit pleadings and produce documents to substantiate their respective contentions. Summons was served on union Nos.1, 2 and the management. The management entered appearance through counsel. Union Nos.1 & 2 though accepted the summons issued from this Tribunal. In spite of affording repeated opportunity union Nos.1 & 2 failed to appear before this Court. Therefore they were called absent and set ex-parte. Thereafter the learned counsel for the management was heard.

4. The dispute referred for adjudication is with regard to the justifiability of withdrawing 5% of the Special Accommodation Advance granted to the employees of the Palakkad unit of the Instrumentation Limited. The dispute was originated at the instance of union Nos.1 & 2. They failed to appear before this Tribunal even after repeated adjournments. There was no representation on their behalf. Therefore it is evident that union Nos.1 & 2 are not interested in proceeding with the dispute referred for adjudication.

5. In the result an award is passed holding that there is ‘no subsisting industrial dispute’ to be adjudicated between union Nos.1 & 2 on the one hand and the management on the other.

6. The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 25th day of November, 2016.

SASIDHARAN K. Presiding Officer

APPENDIX - NIL

नई दिल्ली, 28 फरवरी, 2017

का.आ. 571.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एमएसआई, मद्रास सैपर्स संस्थान, और उनकी कर्मकार, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 61/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.11.2016 को प्राप्त हुआ था।

[सं. एल-42012/123/2012-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 571.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 61/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the MSI, Madras Sappers Institute, and their workman, which was received by the Central Government on 16.11.2016.

[No. L-42012/123/2012-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURTYESWANTHPUR, BANGALORE

DATED : 08th NOVEMBER 2016

PRESENT : Shri V S RAVI, Presiding Officer

C R No. 61/2012

I Party

Sri M Parandaman,
S/o M Markandan, No.99m,
4th Cross, B S V Reddy Layout,
Ramamurthy Nagar,
Bangalore – 560016.

II Party

Lt. Colonel and Officer-in-charge,
MSI, Madras Sappers Institute,
Madras Engineering Group & Centre,
Bangalore – 560042.

A W A R D

- The Central Government vide Order No.L-42012/123/2012-IR(DU) dated 14.12.2012 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDEULE

“Whether the action of the management of Madras Sapper Institute, Madras Engineering Group & Centre, Bangalore-42 is justified in imposing the punishment of ‘termination from service’ w.e.f. 09.12.2009 upon Shri M Parandaman? If not, to what relief the said workman is entitled to?”

- On the receipt of the reference, while registering it as CR 61/2012, notices have been issued to both the parties and Sh. A J Srinivasan Advocate on 01.02.2013 filed vakalat for the I Party and also the claim statement, and whereas, on that day, vakalat has been filed for the II Party also.

- The brief details mentioned in the claim statement are as follows:-

I Party/Workman joined in the office of II Party as Sales Assistant (Office) on 26.08.1989. Thereafter the Workman has been confirmed in service and also the workman has been given several increments and the workman has got unblemished record of service, until he has been illegally and unjustifiably dismissed from service vide order dated 09.12.2009. The II Party issued a show case notice dated 13.07.2009 with incorrect allegation that on

12.07.2009 the I Party has been found in possession of 2 Nos. of Pears Soaps, 2 Nos. of Santoor Soap and 2 Nos. of Flying Disc, without any bill for the purchase of the said items. I Party has replied to the notice, by denying the charges and the II Party has vindictively, blew, the matter out of proportion.

(ii) On 22.07.2009 the II Party issued the order keeping the I Party under suspension and no wages or subsistence allowances has been paid, contrary to the principles of natural justice and the law of the land. The II Party has got full knowledge that the I Party has to maintain the large dependent family members, which included 2 school going children with a merger total earning of Rs.6932/- per month after 19 years of service. Inspite of repeated representation, the II Party has not paid the I Party, any subsistence allowance.

(iii) On 05.08.2009 the II Party called the I Party and also asked him a few questions and without permitting the I Party to read or understand, the said details, the II Party has sent out I party, by stating that the order will follow. The I Party has received a final order dated 09.12.2009, terminating him from service. The enquiry has not been done in accordance, with the principles of natural justice. The Enquiry Officer has not given any opportunity to put forth the defence of the I party. The II Party has taken signature of I Party by stating that the same has been taken, for having attended the enquiry but the copy of the said record has not been furnished to the I Party.

(iv) The Disciplinary Authority has mechanically accepted the findings of the court of enquiry. The I Party is totally innocent, and the Disciplinary Authority has failed to give an appropriate finding. The order of termination is not a speaking order, nor it is supported by the reasons, or evidence and hence, it is liable to be set aside.

(v) The extreme punishment of termination, amounts to economic death to the I Party. The action of the II party, is capricious, abusive and malafide, exercise of power, amounting to victimization and unfair practices as defined under the provisions of Section 2(ra) read with V Schedule of the ID Act, 1947. Further, the I Party, after being dismissed from the service, is without any employment and is suffering the great hardship and financial difficulty. Further more, the I Party is unable to get any alternative employment due to the stigmatic dismissal, tarnishing his image. Further, the action of the II Party is totally illegal, unjustified, unsustainable and is liable to set aside.

(vi) Further, due to the adamant and uncooperative attitude of the II Party, the conciliation proceedings also ended, in failure. Hence, the I Party has requested to answer the points of dispute in favour of the I Party and to direct the II Party to reinstate him into service, with all consequential benefits, like full back wages, continuity of service and all the monetary benefits with costs of these proceedings, in the interest of equity and justice.

4. (i) Brief submissions, made in the statement of objection filed on behalf of the II Party are as follows:-

The I Party does not come under the provisions of ID Act 1947. The II Party institution is running on, no profit and no loss basis, and these are temporary organizations, mainly, for the purpose of carrying out duties such as Officer's Mess, Unit run Canteen, Dairy Farms and the sole purpose is to take care of the welfare of the serving, retired and war-widows belonging to the Army.

(ii) The I Party has drawn a salary of more than Rs.6500/- per month and the I Party has been appointed in the supervisory capacity. The I party has been issued with a notice dated 13.07.2009 and the I party gave the reply contending that he has been intentionally framed to spoil his reputation, on the ground of the previous enmity. The copy of proceedings of the court of enquiry is also produced along with the objection. The I party has also refused the terminal benefits. Hence, nothing survives for the consideration by this Tribunal. There is no illegality or vindictiveness, in terminating the services of the I party. The II party has acted, in accordance with rules governing them. Further, no fault can be found with the order of the dismissal and the I party cannot claim any equity, after having committed an offence. Hence, II party has requested to dismiss the claim statement.

5. The pertinent point that arises for consideration in the present matter is as follows: Whether, the I party/workman is entitled to get relief, as prayed for in the claim statement, for the reasons and grounds stated therein?

6. Analysis, discussions and findings with regard to the above mentioned point.

On a careful perusal of the materials, the following details emerge, from the materials, available on record:-

Sl No.	Dates	Sequence of Events
1.	01.02.2013	The I Party filed the claim statement
2.	07.03.2013	II Party filed the objection for the claim statement
3.	02.04.2014	MW 1(DE) examined and also Ex M-1(DE) to Ex M-16 (DE) marked.
4.	03.04.2014	MW 1 (DE) cross examined by counsel for I party
5.	21.04.2014	WW 1 (DE) examined and also, Ex W-1 (DE) and Ex W-2 (DE) marked
6.	09.05.2014	WW 1 (DE) Cross – examined

7.	27.08.2014	Order on the preliminary issue pronounced by holding that the Domestic enquiry held against the I party by the II party is not fair and proper. Further, ordered the II Party to file an appropriate charge sheet regarding the misconduct that I party has committed according to it and to substantiate the same by leading necessary evidence.
8.	07.10.2014	Application filed u/s 10(4) of ID Act seeking interim relief
9.	10.11.2014	Objection filed by II party regarding Interim Relief
10.	19.03.2015	Orders on Interim Relief Application Passed.

7. Further more, after an order passed to the effect that the Domestic Enquiry is not fair and proper, the I party filed an Application for interim relief and on that, RPAD notice has been sent to the II party and notice of hearing has been served to II party. Still no representation has been made on behalf of II party and the II party called absent. Counsel for I party present along with I party and also, requested the court to pass the award on merits, based on the materials available on record, as the I party is actually suffering a lot, due to the material illegality committed by the II party, by terminating the service of I party on 09.12.2009 itself, and also, the II party has also not paid the interim relief amounts, to the I party, as ordered by this Court. Further the I party has also filed original receipt issued by the Indian Postal Department and the notice of hearing has been sent to the II party in transaction No.ARK282006541IN dated 08.09.2016 and also the notice has been served to the II party on 12.09.2016, that is, after this Court, vide order dated 27.08.2014, has held that the Domestic Enquiry conducted by the II party is not fair and proper. However, the II party is not appearing before the Court and II party has also not paid the Interim Relief amounts, also to I party inspite of the repeated requests made by I party. Hence, it is seen that the II party has failed to appear before this Court without any valid reasons, and also, evading the payment of the interim relief amounts, as ordered by this Court to the I party.

8. It is pertinent to point out that on 27.08.2014 Order has been passed to the effect, that the Domestic Enquiry held by the II party against the I party is not fair and proper, after hearing, both sides and also detailed reasons and grounds also have been mentioned in the said Order. Again, by order dated 19.03.2015, after hearing both sides arguments, this Tribunal has passed the Order directing II party to pay I party 50% of the last paid wages by the way of Interim relief from the said application dated 07.10.2014 till the reference reaches its finality or any other further order is passed by this Tribunal. Further, the I party, in his claim statement and also, in the sworn in deposition before this Court has categorically pointed out that, the action of the II Party is totally illegal, unjustified, unsustainable and is liable to set aside. The same has not been disproved by the II party, in accordance with law.

9. Further, the I party has also pointed out that due to the adamant and uncooperative attitude of the II Party, the conciliation proceedings also ended, in failure. Hence, the I Party has requested to answer the points of dispute in favour of the I Party and to direct the II Party to reinstate him, with all consequential benefits, like full back wages, continuity of service and all monetary benefits, in the interest of equity and justice. On a careful scrutiny of the entire material available on records, it is found that there is serious, sufficient and significant force in the said submissions made on behalf of the learned counsel for the I party.

10. On behalf of II party, a Memo has been filed on 13.10.2014 to the effect that the II party has filed the original documents along with the list of documents before this Tribunal on 23.08.2013 and those documents have already been taken on record and marked in evidence during the enquiry on Preliminary issue and the II party herein adopts and relies on the said documents in the present enquiry also and hence, the said original documents may kindly be taken on record for the purpose of enquiry and further proceedings in the matter. Further, Order on Domestic Enquiry has been passed on 27.08.2014, based on the following records:-

List of Witnesses:

MW1	Major suresh Haobam Enquiry Officer
WW1	Parandaman

Documents exhibited on behalf of the Management:

Ex M-1	Statement of diligent Sh M Parandaman dt. 12.07.2009
Ex M-2	Statement of Manager, Ex Sub Maj/Hony Lt PC Chandran Dt. 13.07.2009.
Ex M-3	Show Cause Notice dated 13.07.2009
Ex M-4	Reply of I party to the Show notice dated 20.07.2009.
Ex M-5	Convening Order dated 12.07.2009.

Ex M-6	Convening Order dated 03.10.2009 appointing Capt Suresh Haobam as Presiding Officer
Ex M-7	Convening Order dated 10.08.2009 appointing Capt Shekh Azhar Shanaz as member 1
Ex M-8	Proceedings of Investigating Officer dated 21.10.2009
Ex M-9	Directions of Brig. Combt. Dt. 18.11.2009.
Ex M-10	Noting Sheet No.3992/Disp/Par/92/MSI dt. 22.11.2009.
Ex M-11	Noting Sheet No.3992/Disp/Par/92/MSI dt. 24.11.2009.
Ex M-12	Final Order of Lt. Col. S S Hiremath dated 09.12.2009
Ex M-13	Request letter of I party for clearance of dues payable to him dated 19.09.2001.
Ex M-14	Receipt of I party for having received Cheque dated 24.09.2011.
Ex M-15	Appointment letter of I party dated 06.09.1989.
Ex M-16	Monthly Payment details of I party vide MSI MEG & Centre dated 31.07.2013.

However, it is seen that, the II party has not established that the dismissal order has been passed as against the I party after following appropriate Rules and Regulations and also, in accordance with law.

11. Though in the statement of objection the II party has stated that the I party cannot claim any benefits and II party has acted in accordance with rules governing them, the II party has failed to establish the same, in accordance with law. Further the I party has filed the application under section 10 (4) of ID Act, to direct the II party management to either reinstate the I party, subject to the final outcome of the Award, or direct the II party to pay interim relief to the I party, at the rate of Rs.10,000/- per month from the date of the application till the date of final Award.

12. Further, I party has established his submissions, in accordance with law, for succeeding in the present matter. However the II party management has failed to prove the charge of misconduct and also even failed to appear before this Court and also, evading to make the payment of Interim relief amounts, as ordered by this Court. The I party has prayed to pass final award in this matter granting him full relief as prayed in the claim statement and all appropriate orders, as may deem fit, in the facts and circumstance of the case since the second party managements have not made out any case against him and also, the II party is violating even the interim order passed by this Court and, also, refusing to even to appear before this Court, even after the receipt of the Registered Post and also delaying the matter and thus, causing, I party, an irreparable loss and mental agony.

13. Further in the affidavit, the I party has categorically stated that, already this Court vide order dated 27.08.2014 has held that the Domestic Enquiry conducted by the II party against the I party is not fair and proper. Hence the II party has to establish the charges alleged in accordance with Law, before this court and also, to justify their action. Further in the affidavit, the I party categorically stated inspite of several requests made by the I party, the II party has not paid the 50% of the Last Paid Wages as ordered vide 19.03.2015. Further more, the I party has stated in the affidavit, he has no other source of income and he is facing financial hardship and he is undergoing the financial difficulty and he has a large family to support and he is also not gainfully employed, ever since the wrongful dismissal made by II party. Though, the II Party has pointed out that there is no infirmity in the dismissal order passed as against, I party, the II party has failed to establish the same, in accordance with Law. Further the I party has categorically stated that the alleged items do not belong to CST and they are only the gift items. On a perusal of records filed on behalf of II party it is seen that the II party has not proved the misconduct committed by the I party. Further, the II party has not admitted the allegations made against him, in the show cause notice issued by II party. Still, II party has failed to establish the alleged misconduct, committed by the I party. Further, even after giving opportunity to II party, by leading necessary evidence and records, the II party has failed to establish the alleged misconduct committed by the I party. Further, the II party issued to the appointment order to I party as per Ex M15. However, it is found that the II party has passed the termination order, as per Ex-M11, without following the proper procedure. Further as per the Ex-M11 termination of I party service has been approved, without the proper application of the Law. Further, it is found that the I party has been terminated without following the proper procedure or in accordance with Law. Above all, It is seen that the II party has failed to prove the alleged misconduct committed by the I party, though the sufficient opportunity has been given to II party. In such circumstances, it is seen that the II party has failed to establish, the misconduct committed by I party.

14. Further, the learned counsel appearing for the I party has urged that the submissions of I party in the claim statement and evidence has been actually left, uncontroverted and unchallenged by the II party and hence, the action of the management has to be held as illegal and unjustified. Further, the submission made on behalf of I party in the claim statement, as being not controverted or assailed by the II party in an appropriate manner known to law, this court has no reason to disbelieve the submissions, made on behalf of the I party in the claim statement which is also established in

accordance with law. Further, II party has not taken any proper interest to oppose the claim statement of the I party. In the above mentioned circumstances, the II party has failed to substantiate its action of imposing the penalty of removal from service, of I party. This Court on the basis of materials on record, and also, after hearing both sides, had held that Domestic Enquiry held against the I party by II party is not fair and proper and also passed an order for payment interim relief amounts in favour of the I party. The II party has not paid the interim relief amounts to the I party, inspite of repeated demands made by the I party to the II party and also the registered RPAD notice has been sent to the II party and also received by the II party. This speaks, volumes about the attitude of the II party. Further the II party has not placed any materials to show that, ID Act is not applicable to the I party herein. Further the II party has not produced any acceptable and relevant records to establish that I party has been dismissed as per the rules and also, in accordance with law. Certainly, the rights of the I party guaranteed under Articles 14, 16 and 21 of the Constitution of India and directive principles of Constitution have been violated by the II party. Further, this court, after considering materials available on record and considering the attitude of the II party, the Court is able to come to a conclusion that the I party is entitled to get relief as as prayed for, in the claim statement. Futher, as per the law laid down by the Hon'ble Apex Court reported in AIR 1968 SC 1413, "Even if the burden of proof does not lie on a party the court may draw an adverse inference if he withholds important documents in his possession which can throw light on the facts in issue in controversy and to rely upon the abstract doctrine of onus of proof." Further, no tenable submission has been made by the II party as to why the I party is not entitled to get relief as prayed for in the claim statement. Certainly, the II party has taken the Court proceedings, lightly and II party is also not justified in terminating the service of the I party, without following the due process of Law.

15. For the above mentioned reasons, it found that the I party is entitled to get relief as prayed for in the claim statement. Hence, the following Award is passed by this Tribunal.

AWARD

The II party/management is not justified imposing the punishment of Removal from service the I party/Sh. M. Parandaman, and, also he is entitled for reinstatement with full back wages, continuity of service and other consequential benefits that he would have received in the absence of the impugned penalty of removal from service.

(Dictated, transcribed, corrected and signed by me on 8th November, 2016)

V. S. RAVI, Presiding Officer

नई दिल्ली, 28 फरवरी, 2017

का.आ. 572.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंध निदेशक, एचएलएल एमएस लिमिटेड, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 48/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-42012/10/2012-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 572.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 48/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Eranakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the Managing Director, HLL M/s Ltd., and their workman, which was received by the Central Government on 14.12.2016.

[No. L-42012/10/2012-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri.K. Sasidharan, B.Sc., LLB, Presiding Officer

(Tuesday the 15th day of November, 2016/24th Kartika, 1938)

ID 48/2013

Workman	:	Shri. N. Premakumaran Nair, Pallimangalam, Keeshammakom, Chengal P.O, Trivandrum, Kerala.
Management	:	<p style="text-align: center;">By Adv. Shri. M. S. Vijayachandra Babu</p> <p>The Managing Director, HLL Lifecare Ltd, Poojappura, Trivandrum – 695 012.</p> <p style="text-align: center;">By Adv. Shri Ajith. S. Nair</p>

This case coming up for final hearing on 10.11.2016 and this Tribunal-cum-Labour Court on 15.11.2016 passed the following:

AWARD

This is a reference under clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) for adjudication.

2. The dispute referred for adjudication is:

“Whether the domestic enquiry conducted against the workman viz., Shri N Premkumaran Nair was conducted by affording all reasonable opportunities to him and was conducted in accordance with the principles of natural justice? (ii) Whether the punishment of “Dismissal from Service” imposed on Shri N Premakumaran Nair by the management of M/s HLL Lifecare Ltd, Trivandrum was proportional to the gravity of offence committed by him? If not, to what relief the workman is entitled?”

3. After receipt of the Order No.L-42012/10/2012-IR(DU) dated 13.11.2013 issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear, submit their pleadings and produce documents to substantiate their respective contentions. On receipt of the summons the parties entered appearance through counsel and submitted their pleadings.

4. The contentions in the claim statement filed by the workman in brief are as follows:-

The workman was appointed in the management company in December, 1991 on daily wage basis @ ₹35/- per day. Subsequently in January, 1994 his appointment was regularized and confirmed in the permanent post. Thereafter the workman became the Vice President of an independent trade union. He participated as a union representative in finalizing the standing orders, long term settlements, promotion policy etc. In the year 2006 the management issued a charge sheet to the workman alleging absence without permission. The workman submitted an explanation stating that there was no willful latches on his part and that he was in financial difficulty and had family problems as well. The workman was suffering from cervical spondylosis. His property was under attachment for the default in payment of loan. While conducting the domestic enquiry the workman was regular in attending duty and he promised to be so in future. Without considering the factual state of affairs the management issued punishment order reverting him from Grade IV to Grade I, thereby causing 30% reduction in the monthly wage. Apart from this, the punishment of one year probation in Grade I post was also ordered by the management. As a result of this punishment by reducing from Grade IV to Grade I, his promotion prospects were diminished.

5. As per memo No.HLL/AFT/P&A/IQ/2007 dated 16.02.2007 the Deputy Manager of the management company framed the charges of major misconduct by invoking clauses (1)(6)(13) and 71 of Clause B of Chapter XII of the Certified Standing Orders of the company. In the charge sheet the allegation is that the workman has committed major misconduct. The misconduct alleged is unauthorized absence from 28.10.2006 to 16.02.2007. The management issued a letter dated 27.04.2007 along with copy of the enquiry report requiring the workman to submit his comments on the report. Thereafter as per notice dated 10.05.2007 the management proposed to impose the punishment of dismissal from service without notice. The said proposal was confirmed by the management as per order dated 24.05.2007. Against that order the workman preferred an appeal before the Director(Marketing) and it was rejected as per order dated 13.09.2007.

6. The disciplinary proceedings initiated by the management and the conduct of domestic enquiry at the instance of the management are without affording reasonable and fair opportunity to the workman to substantiate his contentions. The enquiry officer conducted an ex-parte enquiry. The enquiry officer was well aware that the notice intimating the date of enquiry, issued to the workman was returned as ‘unclaimed’. The presumption drawn by the enquiry officer that the delinquent workman was aware of the enquiry proceedings, is false and incorrect. The affixing

of charge memo and notice of enquiry in the company notice board is not sufficient enough to arrive at a conclusion that the delinquent workman was aware of the disciplinary proceedings and the conduct of enquiry by the enquiry officer. There is illegality and impropriety on the part of the enquiry officer in conducting the enquiry. The enquiry officer ought to have issued a second notice by publication in the newspaper intimating the date of enquiry. The procedure adopted by the enquiry officer is not fair, proper or just. The finding of the enquiry officer is perverse and against the factual state of affairs.

7. The appellate authority has not afforded opportunity to the workman to substantiate his contentions. As per Chapter XII A (2) "unauthorized absence from the post of duty" is a minor misconduct. The disciplinary authority added the charges under Chapter XII B (1), (6), (13) and (71) with intent to impose major punishment to the workman. At any rate the punishment of removal from service for the charges of unauthorized absence, imposed by the management is not in proportion to the misconduct alleged against the workman. Therefore the workman has requested to declare that the domestic enquiry conducted by the management is vitiated, to set aside the punishment imposed and to reinstate him in service with back wages, continuity of service and other attendant benefits.

8. The contentions in the written statement filed by the management in brief are as follows:-

The management is a Central Public Sector Undertaking, having a factory at Akkulam. The workman involved in this reference was employed at the Akkulam factory of the management company. He was a habitual absentee from duty. During the period from 09.11.2005 to 28.12.2005 the workman remained absent from duty without leave or permission. Therefore a memo dated 28.12.2005 was issued to his known residential address. It was returned unserved. Subsequently the workman submitted a representation dated 02.01.2006 with the assurance that he will improve his attendance in future. Accordingly he was allowed to attend duty from 02.01.2006. Thereafter there was no improvement in the attendance of the workman as promised by him. Therefore the management issued a memo dated 04.08.2006 requiring him to submit explanation for intermittent absence without leave or permission. He submitted explanation dated 10.08.2006. The explanation submitted by him was not satisfactory. Therefore the management ordered domestic enquiry. The workman participated in the enquiry. On the basis of the finding of the enquiry officer, the workman was directed to submit explanation. The management took a lenient view and awarded minor punishment of 'reversion in grade' to the workman.

9. Again there was no improvement in the attendance for duty by the workman. The workman absented from duty from 28.06.2006 to 16.02.2007. Therefore the management issued a charge sheet dated 16.02.2007 requiring the workman to submit an explanation. He has not submitted any explanation to this charge sheet. Therefore the management appointed Shri. N. C. Priyan, Advocate as the enquiry officer to conduct a domestic enquiry in relation to the charges levelled against the workman. Even though the enquiry officer issued notice intimating the date of enquiry and requiring the workman to participate in the enquiry, the notice was returned as 'unclaimed'. Therefore the enquiry officer conducted an ex-parte enquiry. Thereafter the management complied the procedural requirements and passed an order of 'removal from service'. The appeal filed against that order was dismissed by the appellate authority. The punishment imposed by the management against the workman is in proportion to the gravity of misconduct committed by him. The management has requested to consider the validity of the domestic enquiry as a preliminary point and sought permission to adduce evidence in case it is required to substantiate the charges levelled against the workman.

10. The contention of the workman that the enquiry officer has not afforded fair, reasonable and proper opportunity to him to substantiate his contentions is absolutely false. The reason for unauthorized absence, stated by the workman is not true to facts. The management has complied all the procedural requirements while imposing the punishment of removal from service against the workman.

11. The appellate authority rejected the appeal filed by the workman as per order dated 13.09.2007. The workman initiated the dispute after a lapse of 4 years. Therefore his claim is barred by limitation in view of Section 2A (3) of the Industrial Disputes Act, 1947. The contention of the workman is without any basis. The enquiry officer has followed the principles of natural justice. The management has requested to uphold their contentions.

12. After filing written statement by the management the matter was posted for filing rejoinder by the workman. He has not filed any rejoinder. Thereafter the matter was posted for preliminary enquiry to consider the validity of domestic enquiry conducted by the enquiry officer. At the stage of preliminary enquiry, as consented by the counsel appearing for both sides, the enquiry file is marked as Ext.M1 and the matter was posted for hearing on the preliminary point. At this stage, the learned counsel for the workman submitted a memo to the effect that the workman is accepting the enquiry and his challenge is only regarding the quantum of punishment. Therefore the counsel appearing for both sides were heard.

13. Even though the learned counsel for the workman submitted a memo accepting the enquiry report, the validity of the enquiry is considered as the initial aspect. Ext.M1 enquiry file contains the proceedings of domestic enquiry conducted by the enquiry officer Shri. N. C. Priyan, an Advocate from Thiruvananthapuram. Ext.M1 enquiry file contains the documents – Exhibit-M1 and Exhibit-M2 marked by the enquiry officer. Even though the enquiry officer has issued notice intimating the date and time of enquiry sufficiently in advance to the delinquent workman, it was returned as 'unclaimed'. The enquiry officer has observed that the postal intimation was served on the workman and he

did not claim the enquiry notice even after the receipt of the postal intimation. Therefore the enquiry notice issued to the workman was returned with endorsement ‘unclaimed’. The documents marked in the course of domestic enquiry and the enquiry report which forms part of the Ext.M1 file probabilise the fact that the enquiry officer has afforded reasonable opportunity to the workman to participate in the enquiry and contest the matter if he so desires. The delinquent workman failed to appear before the enquiry officer without any valid reason. He has not stated any reason for the non-acceptance of the notice of enquiry after accepting the postal intimation. Therefore it is evident that the enquiry officer has afforded reasonable opportunity to the workman. It is also evident that the enquiry officer conducted the enquiry in a just and proper manner and he has followed the principles of natural justice while conducting the enquiry. It follows that the domestic enquiry conducted by the enquiry officer is proper and valid.

14. The next aspect to be considered is whether the punishment imposed by the management is in proportion to the gravity of misconduct committed by the workman. The learned counsel for the management submitted that the workman unauthorisedly absented from duty without any intimation to the management. It is submitted that on an earlier occasion, on the similar set of facts, the management imposed the punishment of reduction in rank to the workman and in spite of which he continued the unauthorized absence from duty on subsequent occasion also. The learned counsel submitted that there were willful latches on the part of the workman and his absence from duty was without any valid and justifiable reason. It is submitted that the punishment imposed is just, fair and in proportion to the gravity of misconduct committed by the workman.

15. Exhibit-M1 document marked in the course of enquiry by the enquiry officer is the memo dated 16.02.2007 issued to the workman. Exhibit-M2 document marked by the enquiry officer reveals that during the period from 26.10.2006 to 14.02.2007, the workman unauthorisedly absented from duty for 110 days. There is no satisfactory explanation from the side of the workman for not attending duty during the aforesaid 110 days.

16. The learned counsel for the workman submitted that the workman has to look after his family members and there is no other earning member to look after his family. It is submitted that a lenient view may be taken in respect of the punishment to be imposed on the workman. It is also submitted that the workman will be regular in future in attending duty if an opportunity is afforded to him to rejoin duty. From Ext.M1 enquiry file it can be seen that on an earlier occasion the workman was punished by the management for the misconduct of absence from duty and his rank was reduced from Grade IV to Grade I. Again the workman absented from duty without obtaining permission or without applying for leave. Considering the submission made by the learned counsel for the workman and in view of the factual situation in this case, a lenient view is taken so as to award a lesser punishment than the severe punishment of dismissal from service to the workman. Considering the overall facts and circumstances of the case, it is held that the punishment of dismissal from service for unauthorized absence, imposed by the management is excessive and disproportionate. From the facts and circumstances of the case it is held that the ends of justice will be met by directing the management to reinstate the workman without back wages. He shall not be eligible for continuity of service during the period he was not on duty.

17. Therefore it is held that the punishment imposed by the management is excessive and disproportionate. It is held that the punishment of removal from service awarded by the management is to be set aside and that the workman should be allowed to rejoin service within two months from the date of publication of the Award in the Official Gazette.

18. The workman shall not be entitled to any arrears of pay and other allowances during the period he was not on duty. He shall not be eligible for continuity of service during the period he was not on duty. The dispute referred for adjudication is answered accordingly.

19. In the result an award is passed holding that the punishment of dismissal from service imposed on the workman by the management is excessive and disproportionate. The workman shall be reinstated in service without back wages within two months from the date of publication of the Award. He shall not be entitled for back wages and other benefits during the period of absence from duty. He shall not be eligible for continuity of service during the period he was not on duty.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 15th day of November, 2016.

SASIDHARAN K. Presiding Officer

APPENDIX

<u>Witness for the workman</u>	NIL
<u>Witness for the management</u>	NIL
<u>Exhibit for the workman</u>	NIL
<u>Exhibit for the management</u>	

M1 - Enquiry Findings/File.

नई दिल्ली, 28 फरवरी, 2017

का.आ. 573.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महानिदेशक, केन्द्रीय लोक निर्माण विभाग एवं उनके कर्मचारी, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली नंबर - 1 के पंचाट (संदर्भ संख्या 80/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/60/2014-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 573.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 80/2014) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director General, Central Public Works Department and their workman, which was received by the Central Government on 07.12.2016.

[No. L-42011/60/2014-IR (DU)]

MANJIT SINGH NAYAR, Dy. Secy.

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI****ID No. 80/2014**

Shri Rampal & 12 Others, through
The General Secretary,
CPWD Mazdoor Union,
Room No.95, Barrack No.1/10,
Jam Nagar House, Shahjahan Road,
New Delhi

...Workmen

Versus

The Director General,
Central Public Works Department,
U Division, CGO Complex
New Delhi 110 003

...Management

AWARD

Consequent upon receipt of a reference from Ministry of Labour, Government of India vide letter No. L-42011/60/2014-IR(DU) dated 11.08.2014 under clause (d) of sub-section (1) and sub-section(2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act), both the parties were put to notice for adjudication of the dispute, the terms of reference are as under:

'Whether the contract between the management of CPWD and its contractors i.e. Imanullah Khan with regard to employment of the workmen as per annexure A is sham and bogus. If yes, then whether the demand of CPWD Mazdoor Union for equal pay for employment and/or regularization of their services by the management of CPWD is legal and justified? If yes, to what relief the respective workmen are entitled for?

2. Brief facts, contained in the statement of claim, are that 13 claimants, whose names are mentioned in para 2 of the statement of claim have been working continuously with the management of CPWD and are performing work of sweeping etc. since the date of their initial appointment mentioned against the names of each claimant in para 2 of the

statement of claim. The above claimants were working under the direct control and supervision of Junior Engineer, Assistant Engineer and Executive Engineer and the so called contract showing the workman to be under the employment of such contractor is purely sham and camouflage. Shri Imanullah Khan, including others, has been alleged to be a fake contractor and he is not competent to employ workmen to perform duties of sweeping, which is perennial nature of job. Contractor has no licence to engage contract labour under the Contract Labour (Regulation & Abolition) Act, 1970(in short the CLRA Act) as such, workmen were direct employees of the management. There is also reference to the judgement of Hon'ble Supreme Court in Steel Authority of India, Secretary HSEB Vs. Suresh and others, wherein such contract has been held to be not genuine and after completion of 240 days, such workman are to be absorbed by the management.

3. That in CPWD, daily rated workers in all categories have been getting their wages in minimum of time scale + dearness allowance, ADA, house rent allowance, city compensatory allowance etc. Workmen herein who are also doing similar duty have been denied minimum wages fixed under the Minimum Wages Act. These workmen are entitled to same wages paid to the daily rated workers in CPWD, alongwith allowances etc.

4. It is the case of the workmen that as per judgement of Supreme Court in the matter of Surender Singh vs. Engineer in Chief, CPWD, daily rated workers are also entitled to be regularized in the time scale after completion of six months of their continuous service. Management has decided to consider for regularization of services of those workmen who have completed 240 days of continuous service in two consecutive years.

5. It is alleged in para 11 of the statement of claim that Ministry of Labour under sub-section (1) of Section 10 of the Contract Labour (Regulation& Abolition) Act, 1970(in short the CLRA Act) in consultation with the Central Advisory Contract Labour Board prohibited employment of contract labour in the process, operation or work specified in the Schedule, as is clear from Annexure D. As per notification dated 21.07.2002 of Ministry of Labour, the employment on the following establishments are prohibited for employing the contract labour in the following category:

- i. Air Conditioner Mechanic
- ii. Air Conditioner Operator
- iii. Air Conditioner Khalasi/Helper
- iv. Electrician
- v. Wiremen
- vi. Khalasi(Electrical)
- vii. Carpenter
- viii. Mason
- ix. Fitter
- x. Plumber
- xi. Helper/Beldar
- xii. Mechanic
- xiii. Sewerman
- xiv. Sweeper
- xv. Foreman

6. After issuance of the said notification, the workmen are to be treated as direct employees of the management of CPWD and their status is that of the daily rated workers directly in the management of CPWD and their duties cannot be handed over to any contractor. It is further alleged that workmen in the category of sweeping got award in their favour in ID No.74/96. Relevant para of the award is as under:

16. It is proved by the evidence that one of the major conditions for employment of contract labour, i.e. registration by the principal employer, i.e.CPWD is lacking and even the contractors are not having licence for supplying the contract labour, so that contract system was not the genuine contract and the workmen connected with the dispute have to be treated as direct employees of the CPWD as per the direction of the Constitution Bench of the Hon'ble Supreme Court decided in Steel Authority of India Ltd case. In another case, the Hon'ble Supreme Court between the Secretary, Haryana State Electricity Board and Suresh & Others (1999 LLJ 1986) also held that the so called contractor was mere name lender who procured labour for appellant Board as broker. Board was not principal employer called contractor was mere camouflage which concealed real relationship of employer and employee.'

23. In view of the above, I hold that there is direct relationship of employer and employee between the management of CPWD and workmen and direct the management of CPWD to consider the regularization of the services of the workmen by relaxing age etc. as per rules and vacancies in accordance with their seniority and also pay equal pay for equal work from the respective date of their employment in the minimum of time scale of Group D employees alongwith all allowances except increments till the date of regularization within one month of publication of the award, failing which management will be liable to pay interest @6% per annum. Parties shall bear their own cost.'

7. Activities of the management herein is duly covered under Section 2 (e) and (g) of the Payment of Wages Act, 1936 and also covered under Industrial Employment (Standing Orders) Act, 1946 and according to Model Standing Orders, workmen on completion of 3 months (90 days) is to be conferred status of permanent workmen and services of such workers is to be declared permanent employee. Since management is an 'industry' covered by provisions of the Industrial Disputes Act, 1947(in short the Act), as alleged' and other relevant laws, therefore violation of provisions of model standing orders is clear cut violation of labour laws. There is also reference to the judgement of Hon'ble Supreme Court in the matter of Hindustan Lever Ltd. Vs. Hindustan Lever Ltd. (1984 Lab.IC 1573). Workmen in the present case were not appointed through back door. Rather, they were engaged through fake/bogus/sham contractors and the workmen were performing their duties in the premises of the management of CPWD. Non-grant of equal pay, regularization as per judgement of Hon'ble Supreme Court has been alleged to be illegal and unjustified.

8. Claim of the workman was resisted by the management who filed reply thereto. Management has taken various preliminary objections, as the claim filed by the workman is devoid of merits and in view of the judgement of Uma Devi Vs. State of Karnataka (2006 4 SCC 1), claim petition is not legally tenable. On merits, it has been specifically denied that the workmen are employed by CPWD. Workmen are employees of the contractor who was awarded the contract by CPWD for fulfilling specific work/job. Contract is awarded by the CPWD who fulfill specific conditions/criteria fixed by the Department. It has also been alleged that the CPWD has no record to confirm the number of years of service put in by a worker. Contract in respect of the workmen herein was only confined to a particular work. Management has denied the other allegations made in the claim. It is also alleged that the workmen herein were not temporary/daily rated workers of the management, hence judgement in Surender Singh case is not applicable to the case of the workmen.

9. Workmen filed rejoinder to the written statement filed by the management and have reasserted the stand taken by them in the pleadings.

10. Against this factual background, vide a order dated 15.01.2015, following issue was framed:

'Whether the contract between the management of CPWD and its contractors i.e. Imanullah Khan with regard to employment of the workmen as per annexure A is sham and bogus. If yes, then whether the demand of CPWD Mazdoor Union for equal pay for employment and/or regularization of their services by the management of CPWD is legal and justified? If yes, to what relief the respective workmen are entitled for?

11. Workmen, in order to prove its case against the management, examined Shri Joginder Singh and Shri Joginder as WW1 and WW2 and certain documents were also tendered by the witnesses in evidence. Management in order to rebut the case of the workmen, examined Shri Suresh Chand, Executive Engineer as MW1, who also tendered in evidence certain document.

12. It was strongly urged on behalf of the workman by Shri B.K. Prasad that the workmen herein have been doing work of sweeping etc. since long. Their nature of duty is the same as is being performed by other regular workmen employed by the management. Therefore, workmen were entitled for equal wages being paid to the regular daily wagers. To buttress his statement, learned authorized representative for the workmen invited attention of the Tribunal to award passed by this Tribunal in ID No.330/2011 as well as the case of SAIL as well as some other judgements, to which I would be referring in the subsequent paras while drawing my conclusion.

13. Per contra, Ms.Avtar Kaur Dhingra, learned authorized representative appearing on behalf of the management urged that the claim filed by the workmen is not legally tenable as there is no relationship of employer and employee between the management and the workmen herein, who in fact were employees of the contractor who was paying them salary as well as supervising their work.

14. Before I proceed to consider the comparative merits of the submissions, raised on behalf of either of the parties, it is necessary to refer to the ratio of judgement by a Constitution Bench of Hon'ble Supreme Court in Steel Authority of India and others Vs. National Union Waterfront Workers and others (2001) 7 SCC 1) wherein Supreme Court was primarily concerned with the meaning of the expression 'appropriate Government' as used in Section 2(1)(a) of the Contract Labour (Regulation and Abolition) Act, 1970 and in Section 2(a) of the Industrial Disputes Act, 1947 in relation to State Government or the Central Government. The other issue involved before the Apex Court was the automatic absorption of contract labour in the establishment of the principal employer as a consequence of abolition notification issued under Section 10A of the CLRA Act 1970. Supreme Court while partly overruling the judgement in Air India Statutory Corporation vs. United Labour Union (1997 (9) SCC 377) prospectively held that neither section 10 of the CLRA Act nor any other provisions of the Act, whether expressly or by necessary implication,

provides for automatic absorption of the contract labour on issuance of notification under the said section, prohibiting contract labour and consequently principal employer is not required to absorb contract labour working in such establishments. In the said case, another incidental issue whether relationship of master and servant between the principal employer and contract labour emerges after issuance of notification under section 10 of the CLRA Act was also considered by the Court. After discussing the entire spectrum of the case law on the subject in Para 125 of the judgement, it was held as under:

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of [Section 10](#), prohibiting employment of contract labour, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment;

“(4) We overrule the judgment of this Court in Air India case prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.”

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance with various beneficial legislations so as to deprive the workers of the benefit there-under. If the contract is found to be not genuine but a mere camouflage, the so called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.”

15. A critical examination judgement in SAIL case (*supra*) would show that this judgement shines like a pole star in the galaxy of precedents in the field of industrial laws and provides a beacon light to all those who are lost in the mist of legal confusion. It is further clear from the above judgements that purpose of issuance of notification appears to be clear and Parliament has intended to create a bar by incorporating provision on engagement of contract labour in any establishment covered by such prohibition notification. Thus, no option is left with the employer to employ contract labour in the category of jobs mentioned in the said notification. In fact, Section 10 is enacted to work as a permanent solution to the problem and there is no legal justification for engagement of contract labour after issuance of such notification issued under Section 10 of the CLRA Act and incase of violation, employer can be imposed with punishment under Section 21 to 23 of the CLRA Act.

16. Supreme Court in International Airport Authority of India vs. International Air Cargo Workers Union (2009 (13) SCC 37) again considered the question of contract labour as well as impact of issuance of notification under Section 10 of the CLRA Act, and held as under:

‘20. But where there is no abolition of contract labour under section 10 of CLRA Act, but the contract labour contend that the contract between principal employer and contractor is sham and nominal, the remedy is purely under the [ID Act](#). The principles in Gujarat Electricity Board continue to govern the issue. The remedy of the workmen is to approach the industrial adjudicator for an adjudication of their dispute that they are the direct employees of the principle employer and the agreement is sham, nominal and merely a camouflage, even when there is no order under section 10(1) of CLRA Act. The industrial adjudicator can grant the relief sought if it finds that contract between principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employer and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short who has direction and control over the employee. But where there is no notification under section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularize the services of the contract labour

does not arise. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor.

17. It is clear from pleadings as well as evidence on record that the workmen herein were engaged by the management of CPWD in the year 1982 and onwards. It is further clear from matrix of the case that the workmen herein were admittedly doing work for the benefit of CPWD and it was not an independent or individual work of the so called contractor in whose employment they have been shown in the evidence adduced by the management. At this juncture, it is also appropriate to refer to notification dated 21.07.2002 issued by Ministry of Labour, which is Ex.WW1/4. A bare perusal of above notification would show that Ministry of labour, in the exercise of power conferred by Section 1 of Section 10 of the CLRA Act, in consultation with Central Advisory Contract Labour Board, prohibiting employment of contract labour in the following 15 types of work/jobs and work of sweeping in the above notification finds mention at serial (xiii). Claimants have also filed copy of award which has been published under Section 17 of the Act in a similar matter decided vide ID No.74/1996 wherein also similar stand was taken by the management that the workmen were not in the employment of the management of CPWD and were employees of contractor. In the said case also, there is reference to the judgement of Constitution Bench of the Hon'ble Apex Court in the matter of Steel Authority of India (2001 (7) SCC 1) and particularly in para 125 of the said judgement, it has been held that the workmen are entitled to be considered for regularization in the management of CPWD by relaxing the condition of minimum age at the time of initial employment as contract labour and till regularization, workmen have to be treated as daily rated/casual workers of CPWD.

18. In the case in hand, management has not taken care to implead or examine Imanullah Khan, so called contractor, in whose employment the claimants herein have been shown to be working. To my mind, he was the best witness to depose the nature of work which was being performed by the claimants herein and his evidence as to under whose supervision claimants herein were working would have been very relevant and vital. I am not in agreement with contention of the learned A/R for the management that the workmen should have called the contractors as witness or impleaded him as a party so as to unfold the truth. Since the contractor is admittedly an agent of the principal employer and there is privity of contract between the management of CPWD and the contractor, in such a situation, management having all the relevant documents in its possession so as to show that what work was allotted, what was the nature of work which was to be got done by the workmen through the so called contractor and amount of payable to such workmen.

19. Claimants, in order to substantiate the allegations made in the claim, has examined Shri Joginder Singh as WW1 whose affidavit is Ex.WW1/A. He has also tendered list of workmen Ex.WW1/1 and copy of office memorandum is Ex.WW1/2. There is also document, letter Ex.WW1/3 addressed to the Executive Engineer by Deputy Director (Admn.) regarding implementation of judgement of the judgement dated 17.01.1986 in the case of Surender Singh Vs. Engineer in Chief.

20. Question of contract labour was also considered by the Hon'ble Apex Court in the case of Suresh vs Haryana State Electricity Board (1999 LLJ 1086). It was also a case where question of right of equality, i.e. equal pay for equal work as well as question of contract labour was considered. In the said case also Haryana State Electricity Board awarded contract for keeping plants and service station clean and hygienic conditions to a private contractor. There was a stipulation in the contractor to employ minimum number of workmen. Workmen had put in more than 240 days in a calendar year and worked for several years. Labour Court ordered their reinstatement with continuity of services when contractor had terminated their services. Hon'ble High Court also held that there existed relationship of employer and employee between the Electricity Board and the workmen and upheld the award of eh Labour Court. Hon'ble Apex Court also have held the judgement of the High Court and observed that maintenance work in the plant is not seasonal in nature and overall control of contract labour, including administrative control rested with the Electricity Board. Neither the contractor was licenced nor Electricity Board was registered as principal employer. Therefore, so called contract system was merely a camouflage, bogus and a smoke screen. In the case in hand also as observed above, admittedly there is no evidence on record to show that the management was duly registered nor there is any evidence worth the name that the so called contractor was duly licenced under the law. Work in the case in hand is also not of seasonal nature and most of the workmen are doing this work regularly for the last several years. Same cannot be termed to be seasonal or temporary work.

21. Management though examined Shri Suresh Chand as MW1, but his statement is not of much value so as to refute the case of the claimants. He has admitted that contract employees are not being paid wages equal to the regular time-scale of sweepers. He further admitted that as per notification Ex.WW1/4, i.e. prohibition notification, issued under Section 10 of the CLRA Act, at serial No.14 there is mention of 'sweepers', which shows that for the purpose of sweeping etc., contract labour cannot be engaged by the department or management of CPWD. It is really strange that despite issuance of such notification, Department is still resorting to the practice of engaging labour or daily rated workmen through so called contractors. In fact, workmen are not aware of the name and antecedents of such contractor, who normally does not come to the sate and work is being done under the supervision of the officials, Junior Engineer, Assistant Engineer of the management. Though management filed copy of licence Ex.MW1/4 issued in favour of the so called contractor, Shri Imanullah Khan but there is no mention of sweeping in the said licence. Moreover, how can the Department issue such licence for sweeping/scavenging, in the face of prohibition notification issued under Section 10 of CLRA Act, Ex.WW1/4. Shri Suresh Chand, MW1 has also admitted that prior to issuance of this notification there was no licence of the contractor in terms of Section 10 of the CLRA Act, though he tried to clarify that the same was not required as the number of workmen employed was less than 20. Yet, there is no evidence on record to show that prior to the issuance of notification Ex.WW1/4, number of such workmen was less than 20. The other documents filed by the management, Ex.MW1/5 regarding transfer of salary for the month of January 2016, simply shows that salary of employees was credited in the bank accounts of such workmen, who were working under Imanullah Khan, the contractor. To my mind, simply crediting of salary or transfer of salary in the account of the respective workmen through contractor would not be legally sufficient so as to legally and logically prove that the workmen in question were doing duty directly under the employment of the said contractor, who has not entered into the witness box so as to authenticate all these documents.

22. During the course of arguments, much stress was laid by the A/R for the claimant to the judgement in Surender Singh case, which has been mentioned in the various correspondence of the management also. This judgement purely details equal pay for equal work and method of calculation of daily wage to daily rated workers. Department is also issued directions from time to time for implementation of the said judgement.

23. Now the vital question which requires determination is whether the so called contracts entered into between the management and the contractors, which have neither been exhibited nor proved on record, as per requirement of law are sham and bogus.

24. During the course of arguments, both the learned A/Rs for the respective parties relied upon the ration of judgment in SAIL case (supra). In the said case as discussed above, the Hon'ble Apex Court has cast a duty upon the Industrial Adjudicator to examine in the light of facts and circumstances of each case whether so called contract entered into between the management and the contractor is sham or nominal it is just a device to defeat the provisions of the law so as to ensure that the workmen do not claim to be employees of the management. It is apt to mention here that CLRA Act was enacted by the Parliament to deal with the abuse of contract labour system and the Act was framed by the Parliament to curb abuse of contract labour by contractor. Primary object of the Act was to regulate employment under the contract labour system in certain categories of employment. This approach is clearly discernable from the overall provisions of the Act. Further this Tribunal has to keep in mind noble object of these social beneficial legislation which needs to be construed in favour of the workmen.

25. During the course of arguments, reliance was placed by the management on Workmen Vs Coates of India Ltd. [2004(3) SCC 547]. It was a case where the workmen were employed in the canteen run in the premises of the company. The canteen was being run by the contractor in the industrial establishment and main question before the court was whether the workman was an employee of the contractor who was running the canteen in the premises of the establishment or directly that of the management. Industrial Tribunal decided in favour of the workman and matter was taken by way of writ petition before the High Court and Single Judge dismissed the writ filed by the management. However, in the writ appeal, Division Bench set aside the judgement of the Single Judge and held that employees were not employees of the Company. Hence, an appeal was filed by the workmen before the Supreme Court wherein decision of the Division Bench was upheld. A critical appraisal of the judgement would show that there was ample evidence on record to show that as per the contract, employees were not contractual employees of the company nor they have ever moved the company for leave or enjoyed other benefits which the regular employees were enjoying. Tribunal also found that canteen employees were getting their wages from the respective contractors after signing the registers and attendance register was also maintained by the caterers/contractors. It was against this background it was held by the Hon'ble Apex Court that there is no escape from the conclusion that the workmen cannot be held to be employees of the respondent company.

26. To buttress his submissions, reliance was placed by the management on Ram Singh & Others Vs. Union Territory of Chandigarh [2004 (1) SCC 126]. It was also a case of contract labour and the workman in the said case were trained electricians employed by the management and were claiming regularization of their services in the Engineering Department. Contract was alleged to be sham, camouflage and not genuine. The Hon'ble Apex Court after considering spectrum of the case on the subject held as under:

'In determining the relationship of employer and employee, no doubt 'control' is one of the important tests but is not to be taken as the sole test. In determining the relationship of employer and employee all other relevant

facts and circumstances are required to be considered including the terms and conditions of the contract. It is necessary to take a multiple pragmatic approach weighing up all the factors for and against an employment instead of going by the sole 'test of control'. An integrated approach is needed. 'Integration' test is one of the relevant tests. It is applied by examining whether the person was fully integrated into the employer's concern or remained apart from and independent of it. The other factors which may be relevant are - who has the power to select and dismiss, to pay remuneration, deduct insurance contributions, organize the work, supply tools and materials and what are the 'mutual obligations' between them.

27. Normally, the relationship of employer and employee does not exist between an employer and Contractor and servant of an independent Contractor. Where, however, an employer retains or assumes control over the means and method by which the work of a Contractor is to be done it may be said that the relationship between employer and the employee exists between him and the servants of such a Contractor. In such a situation the mere fact of formal employment by an independent Contractor will not relieve the master of liability where the servant is, in fact, in his employment. In that event, it may be held that an independent Contractor is created or is operating as a subterfuge and the employee will be regarded as the servant of the principal employer. Where a particular relationship between employer and employee is genuine or a camouflage through the mode of Contractor is essentially a question of fact to be determined on the basis of features of relationship, the written terms of employment, if any, and the actual nature of the employment. The actual nature of relationship concerning a particular employment being essentially a question of fact, it has to be raised and proved before an industrial adjudicator.'

28. Reliance was also placed upon the case of Nilgiri Co-operative Market Society Ltd. Vs. State of Tamil Nadu [2004 (3) SCC 5614] In the said case, it was observed that burden of proof lies upon the party who set up the plea that the workmen are employees of the principal employer and not of the contractor and this question is to be decided by the Tribunal on the basis of evidence on record. Normally, findings of the Tribunal would not be interfered with by the High Court in exercise of powers under Article 226 of the Constitution of India. Hon'ble Apex Court also held that the question whether workmen are employees of the principal employer or contractors depends upon a number of factors and the test of organization or control and supervision test is not always the decisive test. There are other factors to be construed by the Tribunal to be taken into consideration and Tribunal can also pierce the veil having regard to provisions of the Act. In the said case there were more than 400 workers, who were porters, who formed a Co-operative Society. The said workers claimed themselves to be employees of the Co-operative Society and Tribunal held that there does not exist any relationship of employer and employee between the society and the workmen. Writ petition preferred before the High Court was also dismissed and decision of the Tribunal approved by the High Court was also upheld by the Apex court, by observing as under:

'Determination of the vexed questions as to whether a contract is a contract of service or contract for service and whether the concerned employees are employees of the contractors has never been an easy task. No decision of this Court has laid down any hard and fast rule nor it is possible to do so. The question in each case has to be answered having regard to the fact involved therein. No single test - be it control test, be it organization or any other test - has been held to be the determinative factor for determining the jural relationship of employer and employee. There are cases arising on the borderline between what is clearly an employer-employee relation and what is clearly the independent entrepreneurial dealing. Different tests have been applied in different cases having regard to the nature of the problem arising in the fact situation obtaining therein. Emphasis on application of control test and organization test have been laid keeping in view the question as to whether the matter involves a contract of service vis-à-vis contract for service; or whether the employer had set up a contractor for the purpose of employment of workmen by way of a smoke screen with a view to avoid its statutory liability. Supervision and control test is the *prima facie* test for determining the relationship of employment. The nature or extent of control required to establish such relationship would vary from business to business and, thus, cannot be given a precise definition. The nature of business for the said purpose is also a relevant factor. In a given case it may not be possible to infer that a relationship of employer and employee has come into being only because some persons had been more or less continuously working in a particular premises inasmuch as even in relation thereto the actual nature of work done by them coupled with other circumstances would have a role to play.'

29. The control test and the organization test, therefore, are not the only factors which can be said to decisive. With a view of elicit the answer, the court is required to consider several factors which would have a bearing on the result : (a) who is appointing authority; (b) who is the pay master; (c) who can dismiss; (d) how long alternative service lasts; e) the extent of control and supervision; (f) the nature of the job, e.g. whether, it is professional or skilled work; (g) nature of establishment; (h) the right to reject.

30. Similarly, reliance was placed upon Bengal Nagpur Cotton Mills Vs. Bharat Lal [2001 (1) SCC 635] wherein question regarding sham and bogus agreements is also considered. Hon'ble Apex Court also considered the question whether contract labour were employees of the principal employer or that of the contractor. It was observed that merely because some officers of the principal employer were giving some instructions to the employees of the contractors, they would not make them employees of the principal employer.

31. Lastly, strong reliance was placed by the management upon the case of Haldia Refinery Canteen Employees Union Vs. Indian Oil Corporation Ltd. [2005 (6) SCC 51] and Balwant Rai Saluja Vs. Air India Ltd. [2014 (9) SCC 407]. Both were cases of statutory canteens managed by contractor in the premises of the principal employer. In this case, it was held that the workmen working in the canteen are employees of the principal employer for the purpose of Factory Act only and not ipso facto workers of the establishment for other purposes like absorption etc. under the ID Act.

32. This Tribunal cannot ignore the vital fact that Section 46 of the Factories Act, 1948, requires establishment of a canteen in a factory employing more than 250 workers. State Government have been given powers under the Act to make rules requiring such canteens to be provided in the factories so as to ensure welfare of the workmen working therein. Factories Act is otherwise a social legislation and it provides for the health, safety, welfare, working hours and leave and other benefits for workers employed in factories. Even Section 16 of the CLRA Act specifically provides that the appropriate Government may make rules requiring every establishment setting up one or more canteens for the use of contract labour. There is even provision for rest rooms as well as other facilities to be provided to ensure that all these above requirements as well as amenities which are required to be provided under the above Acts for the benefit of contract labour in the establishment is fully complied with. Therefore, it was against this background that Apex court held that labour working in the factor was the employee of the Company, i.e. principal employer for the purpose of Factories Act and not for the purpose of Industrial Disputes Act.

33. A close reading of the judgements relied upon by the management would show that facts and circumstances in each case were different and facts in none of these cases were similar to each other except the case of Coates of India Ltd. Case(supra), Haldia Refinery Canteen Employees Union case(supra) and Balwant Rai case (supra) where workmen were admittedly working in the canteen or premises of the establishment or factory.

34. However, situation in the case on hand is different. It is not the case of the management that administrative or supervisory control over the workmen was being exercised because of statutory requirements as was the position in Haldia Refinery Canteen Employees Union case(supra) and Ram Singh case (supra). Management has not whispered a word that contractor was giving directions to the workman to do a particular kind of duty on the spot so as to show that supervisory and effective control was with the contractor. Rather, it has been admitted by MW1 that they were giving directions to the workers who were doing work on the spot. In the case in hand, there other peculiar factors which were not present in the authorities relied upon by the management. There was no issuance of prohibition notification under Section 10 of the Act in most of the cases relied upon by the management, whereas in the case on hand, vide Ex.WW2/1 prohibition notification was admittedly issued. Workmen as per list Ex.WW1/M1 are mostly skilled and semi-skilled workmen who are admittedly performing their duties at the respective sites as per directions of the Assistant Engineer, Junior Engineer, etc. Tribunal cannot ignore the fact that duties of khalasi, beldaars, wiremen, lift operators, AC operator etc. is of such nature that the same can be performed only under the directions and direct supervision of superior officers and there cannot be any role of contractor in the performance of such duties. Management has admittedly flouted the notification Ex.WW2/1 and it was followed more in breach than in observance. Management has neither proved any contract nor examined any contractor so as to prove that supervisory or administrative control was that of the contractor whereas in the cases relied upon by the managements contracts were proved on record so as to determine nature of work, control and duration of such contracts. It was also proved in some of the cases that the contractor was marking attendance of the workmen, issuing wage slips etc. Thus, in said cases, control over the workmen was that of the contractor whereas in the case on hand, all such material facts are missing as the same have not been pleaded or proved on record by the management. Moreover, in the case in hand, management has not examined any contractor nor proved/exhibited any contract awarded to the said contractors so s to ascertain terms and conditions of the contract and nature of control which the principal employer or contractor was to exercise upon the workmen employed at the spot. In such circumstances, this Tribunal is bound to drawn adverse inference against the management.

35. Learned A/R for the workmen relied upon the case of BHEL Vs. State of Uttar Pradesh (2003 Lab.IC 230) Hon'ble Apex Court dealt with the question of contract employee. It was a case where workmen were engaged as gardeners(mali and sweepers) to maintain lawns and parks inside the factory premises of the company. Their services were terminated ion 01.12.1988 and workmen took matter to the Labour Court, who directed the Company to reemploy them and pay compensation. Ultimately matter reached before the Supreme Court wherein plea was taken that the workmen were engaged for working as gardeners in the factory premises and campus of the Company and the Hon'ble Apex Court finally upheld decision of the Labour Court by observing as under:

"5. The true test may, with brevity, be indicated once again. Where a worker or group of workers laborers, to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contracts is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth though draped in different perfect paper arrangement, that the real employer is the Management, not the immediate contractor, Myriad devices, half-hidden in fold after fold of legal form depending on the degree of

concealment needed the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer based on Articles 38, 39, 42,43 and 43-A of the Constitution. The court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances.'

36. It is not out of place to mention here that in SAIL case (*supra*), the Hon'ble Apex Court approved ratio of judgement in Hussainbhai, Calicut Vs. The Alath Factory Thezhilali Union, Kozhikode & Otrs [1978(4) SCC 257]. Supreme Court in the said case also considered the vital question of status of the workmen who have been employed through contractor by the principal employer. Issue in the said case was hiring of workmen through contractor by industry manufacturing ropes. Supreme Court pointed out that work done by the contract labour was integral part of the industry concerned and the workmen were broadly under the control of the management. Payment of wages was being made through the contractor as is the position in the present case. In order to ascertain the real nature of the contract, the Apex Court observed that where a worker or a group of workers labour to produce goods or services and these goods or services are for the business of another, that other is in fact the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he, for any reason, chokes off the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex-contractu is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, Courts discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor.

37. Yet in another case, Sankar Mukherjee & Others Vs. Union of India & Others [1990 (Supp.) SCC 668], The Apex Court considered the notification under Section 10(1) of the Contract Labour (Regulation & Prohibition) Act,1970. The said notification by the Government of West Bengal dealt with prohibiting the employment of contract labour in 16 departments covering 65 jobs in the establishments of M/s. Indian Iron and Steel Co. Ltd. The list of the departments and the jobs are annexed in the schedule to the notification. One of the Departments related to Brick Department excluding the job of loading and un-loading of bricks from wagons and trucks. On a challenge made by the affected workers that they had been subjected to hostile discrimination so much so that the workmen doing the same job in other departments and allied jobs in the same department have been rescued from the system of contract labour, the Supreme Court pointed out that bricks handled by the brick department were used in furnaces of the company as refractory and incidental to the industry carried on by the company. The petitioners herein were employed as contract labour by the company for the last 15 to 20 years. The Supreme Court further pointed out that even though the petitioners were not doing the job of stacking the bricks, there was no denial nor any averment or material on the record to show that the job of loading and unloading of bricks was not incidental or alike to the stacking of the bricks. On the other hand, they are one continuous process. That being so, the workers performing these jobs which are of perennial nature, are to be treated alike. The Supreme Court pointed out that the workers doing the job of loading and unloading from the wagons and trucks in the Brick Department are to be treated on par with those who are doing the job of cleaning and stacking in the said Department. The Supreme Court further pointed out that there was o reason as to why others doing the same job should be treated differently.

38. During the course of arguments, great emphasis was placed by the learned counsel for the workmen on the fact that when the nature of job done by the workmen herein is regular and perennial in nature and workers are doing same work which was being done by regular workmen, who were admittedly drawing salary double the amount of the salary of the workmen herein, in such a situation , so called contracts with the contractors in the face of prohibition notification under Section 10 cannot be termed to be legally valid. Such agreements are against public policy and any agreement against public policy is liable to be termed as a void agreement. Consequently, such a contract itself becomes void, sham, nominal and bogus in the eyes of law, such contracts are bogus and sham in law. Since majority of the workmen are doing the work of skilled or semi-skilled in nature, which is an integral part of the activity of the department, i.e. CPWD as such there was no question of engaging contract labour after issuance of notification under Section 10 of the CLRA Act.

39. In this regard, reliance was placed by the workmen on the case of Catering Cleaners of Southern Railway vs. Union of India and another [1987 (1) SCC 700]. This decision relates to a case of contract labour engaged for cleaning catering establishments and pantry cars in Southern Railway. The Supreme Court pointed out that although the contract system has been abolished in almost all the other Railways, the Southern Railway persists in employing contract labour for cleaning its catering establishments and pantry cars to serve public better. In considering the claim of the contract labour , the Supreme Court pointed out that the work of cleaning catering establishments and pantry cars is necessary and incidental to the industry or the business of the Southern Railway; the employment is of perennial nature and that the work required employment of sufficient number of whole-time workmen. Thus, these factors satisfy the provisions under Section 10(2) of the CLRA Act. Considering such facts, instead of issuing a Mandamus, the Supreme Court directed the Central Government to take appropriate action under Section 10 of CLRA Act in the matter of prohibiting employment of contract labour in the work of cleaning catering establishments and pantry cars in Southern Railway. The Supreme Court further directed that these workmen, who were previously employed by the contractor on the same wages and conditions of work as are applicable to those engaged in similar work in Western Railway, be absorbed without waiting for the decision of the Central Government.

40. Question of contract labour was also considered by the Hon'ble Apex Court in the case of Suresh vs Haryana State Electricity Board (1999 LLJ 1086). It was also a case where question of right of equality, i.e. equal pay for equal work as well as question of contract labour was considered. In the said case also Haryana State Electricity Board awarded contract for keeping plants and service station clean and hygienic conditions to a private contractor. There was a stipulation in the contractor to employ minimum number of workmen. Workmen had put in more than 240 days in a calendar year and worked for several years. Labour Court ordered their reinstatement with continuity of services when contractor had terminated their services. Hon'ble High Court also held that there existed relationship of employer and employee between the Electricity Board and the workmen and upheld the award of the Labour Court. Hon'ble Apex Court also upheld the judgement of the High Court and observed that maintenance work in the plant is not seasonal in nature and overall control of contract labour, including administrative control rested with the Electricity Board. Neither the contractor was licenced nor Electricity Board was registered as principal employer. Therefore, so called contract system was merely a camouflage, bogus and a smoke screen. In the case in hand also as observed above, admittedly there is no evidence on record to show that the management was duly registered nor there is any evidence worth the name that the so called contractor was duly licenced under the law. Work in the case in hand is also not of seasonal nature and most of the workmen are doing this work regularly for the last several years. Same cannot be termed to be seasonal or temporary work.

41. Conspectus of the above judgements would clearly show that heavy duty has been cast on the Industrial Adjudicator so as to decide whether the contract in question is genuine one or sham, camouflage or bogus. As discussed above, no such contract has been proved on record by the management, who has admittedly engaged workers after issuance of prohibition notification Ex.WW1/1 dated 08.09.1994. No doubt, CPWD, i.e. the management has its offices throughout the country and they are engaging labour for different projects but being an important organ of the Government, it is expected from such a big organization that it should act like a model employer and cannot engage any labour which is in derogation of the prohibition notification issued under Section 10 of the CLRA Act. Simply because punishment is provided under Section 23 of the CLRA Act for contravention of the provisions regarding employment of contract labour, that would not itself mean that the Government can engage contract labour in defiance of the statutory prohibition or notification issued under Section 10 of the Act. The Act does not even exclude prosecution of the officers of the State Government or any of the Instrumentalities under the State Government for contravening provisions of the Act. However, the fact remains that no such prosecution has ever been launched against officials of CPWD for violation of Section 23 of the CLRA Act nor any other law. In view of my detailed discussion hereinabove, it is held that so called contracts between the management of CPWD and contractors are held to be sham, bogus or nominal; as such, workmen are held to be directly in the employment of the management.

42. Now, the next question which is also required to be answered by this Tribunal is whether workmen herein are entitled for equal pay for equal pay from the date of their initial appointment or regularization of their services by the management ? In this regard, learned A/R for the management invited attention of this Tribunal to office order Ex.WW2/2 which deals with equal pay for equal work and method of calculation of such daily rated workers of CPWD. Perusal of the above office order would show that the same was issued by Directorate General of Works of CPWD, New Delhi and subject of the letter is as under:

Subject	Implementation of Supreme Court judgement dated 17.01.1986 on Surender Singh's case regarding equal pay for equal work' – Method of calculation of wages of the daily rated workers regarding
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Reference have been received from some of the superintending Engineers/Executive Engineers etc. seeking clarification regarding method of computing daily rates payable to daily rated workers of CPWD on the concept of 'equal pay for equal work'. It has been decided that the following formula may be adopted for the purpose of working out daily rates of wages of daily rated workers of the CPWD:

"The total monthly emoluments admissible to regular counterparts of the daily rated workers at the minimum of the respective scale of pay may be multiplied by number of days in a particular month after deducting there-from the days of absence plus the days of rest falling in the week/weeks in which the worker remained absent and the result may be divided by number of days in the month. The figure so arrived will be the daily rate of wages of the worker. '

43. There is also another letter Ex.WW1/3 which also deals with implementation of decision of the Court in Surender Singh Vs. Engineer In Chief case (supra) regarding equal pay for equal work. In this letter also there is clarification given by the Department regarding calculation of arrears of wages. Further, letter Ex.WW2/4 deals with regularization of workers working on muster roll under CPWD. This letter simply clarifies that persons working on work order and contract basis cannot be considered for regularization as they are not on direct rolls of CPWD. Regularization of these workers will be strictly subject to fulfillment of eligibility conditions prescribed in the recruitments rules of the respective posts. This letter also clarifies that daily wage worker should be eligible in respect of maximum age limit on the date of appointment to the regular post. For this purpose, the period spent by him as daily wage worker is deducted from the actual age on the date of his regularization. Normally casual workers are regularized against the direct recruitment quota vacancies. Compliance report of the above letter was also be furnished to the contractor of CPWD by the concerned officials.

44. During the course of arguments, learned A/R for the claimant relied upon the provisions of Rule 25(v)(a) of the Contract Labour (Central) Rules 1971, which provides that where workmen employed by the contractor performs same or similar kind of work as the workmen directly employed by the principal employer wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment for the same kind of work.

45. Reliance was also placed upon the case of Indian Airlines vs. Central Government Labour Court (1987 (II) LLJ 512). It was a case where question of equal pay for equal work was considered. In fact management of Indian Airlines has engaged workers for rendering services for sanitary water supply, sewage work etc. Later on, their services were transferred to the contractor, who terminated their services. It was held that remedy to the workmen is either to file reference under Section 10 of the Act or file application under Section 33(C)(2) for equal wages which their regular counter parts are getting. It was further observed that in case of less wages being paid to the contract workmen, principal employer is bound to pay wages and recover the same from the contractor. Resultantly, it is held that workmen herein are entitled for equal pay with their regular counterparts performing similar duties on the similar posts from the date of their appointments.

46. As a sequel to afore-mentioned discussions, it is held that the so called contract between management of CPWD and its contractor, i.e. Imanullah Khan with regard to employment of the workmen whose names are mentioned in Column No.2 of Annexure A attached to the reference order, is held to be sham, and bogus. It is further held that demand of CPWD Mazdoor Union for equal pay with their regular counterparts performing similar duties on the similar posts from the date of their employment and regularization of their services by the management of CPWD is legal and justified. Workmen shown to be working through the contractor are entitled to be regularized in accordance with the Regulations/policy of the management applicable in this behalf. While regularizing services of the workmen, management is required to keep in mind their age, qualification and length of service etc. and any policy in this behalf. An award is accordingly passed. It be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA , Presiding Officer

नई दिल्ली, 28 फरवरी, 2017

का.आ. 574.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, इंडियन इंस्ट्रियूट मास कम्युनिकेशन एवं उनके कर्मचारी, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली नंबर - 1 के पंचाट (संदर्भ संख्या 67/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/203/2015-आईआर (डीयू)]

मंजीत सिंह नैयर, उप सचिव

New Delhi, the 28th February, 2017

S.O. 574.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. Case No. 67/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, Indian Institute of Mass Communication and their workman, which was received by the Central Government on 07.12.2016.

[No. L-42011/203/2015-IR (DU)]

MANJIT SINGH NAYAR, Dy.Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 67/2015

Shri Dev Raj, S/o Shri Ram Rattan,
C/o Delhi Labour Union, Aggarwal Bhavan,
GT Road, Tiz Hazari,
New Delhi – 110 054

...Workman

Versus

The Director
 Indian Institute of Mass Communication,
 New Delhi Municipal Council,
 Aruna Asaf Ali Marg, J.N.U.,
 New Delhi - 110 067

...Management

AWARD

Present case was received from Ministry of Labour and Employment vide order No.L-42011/203/2015-IR(DU) dated 27.10.2015 for adjudication of the industrial dispute and the same is as under:

'Based on the charge sheet and enquiry report, is the stoppage of 5 increments together with non-counting of the period of suspension for the purpose of qualifying service and grant of 3rd ACP justified? If not, to what relief is the workman entitled to?'

2. Both parties were put to notice and statement of claim was filed on behalf of the workman, Shri Dev Raj (hereinafter referred to as the claimant), who has alleged that he joined the employment of the Institute of Mass Communication (in short the management) on 24.08.1981. Since then, he was discharging his duties to the entire satisfaction of his superiors and has unblemished record of service to his credit.

3. It is the case of the claimant that in the month of September, he was issued an order of suspension and thereafter in October 1999, charge sheet was served upon him, containing baseless and bald allegations that he marked his presence for a period of 40 days whereas he did not perform his duties during the said period. He was also charged with unsatisfactory work and behavior. Reply to the charge sheet was filed by the claimant on 28.10.1999 wherein all the allegations were denied and despite the same, punishment by way of stoppage of 5 increments was imposed and the period of suspension was ordered to be not counted as qualifying service. It is pertinent to mention here that prior to imposing of the above punishment, during pendency of enquiry proceedings, suspension of the claimant was revoked in December 2002 and claimant was asked to resume duties immediately. Claimant has alleged that stoppage of 5 increments is totally illegal and not counting his suspension period for qualifying service passed vide order dated 22.10.2003 is totally illegal, unjust and malafide for the reasons the the claimant has not committed any misconduct and discharges his duties sincerely. Finally, prayer has been made by the claimant for setting aside of the order of punishment dated 22.10.2003 and for restoration of all consequential benefits , including his 3rd ACP which was due and payable in the year 2011.

4. Management did not put in its appearance despite notice and even fresh notice was issued for presence of the management. In view of the absence of the official of the management, ex-parte proceedings were ordered vide order dated 14.07.2015 against the management.

5. Claimant in support of his case examined himself as WW1 and Shri Surender Bhardwaj, General Secretary, Delhi Labour Union as WW2 and also tendered in evidence documents Ex.WW1/1 to Ex.WW1/4 and I would be referring to the same during the course of my subsequent discussions.

6. Claimant has adduced evidence by tendering in evidence demand notice, which is Ex.WW1/1, which shows that the claimant has joined the management on 24.08.1981. Union has also taken up the matter with the Assistant Labour Commissioner, as is evidence from Ex.WW1/3. There is nothing on record to show that the management took any pains to appear before the ALC so as to clearly settle its stand in respect of allegations contained in the statement of claim.

7. It is clear from the averments made in the statement of claim that he was placed under suspension on 17.09.1999 and a charge sheet dated 14.10.1999 was served on the claimant. Claimant filed his reply on 28.10.1999 denying all the allegations. It is clear from the averments contained in the statement of claim as well as affidavit Ex.WW1/A that penalty of stoppage of five increments and non counting of suspension period for his qualifying service was imposed on 22.10.2003. It is clear from charge sheet dated 14.10.1999 that the claimant is stated to be absent in the month of July-August 1999 for 40 days whereas he has wrongly marked his presence in respect of the said period in the record.

8. It was urged on behalf of the claimant that no list of documents or witnesses was supplied to the claimant during the course of enquiry and copy of enquiry report was not given to him before imposing the punishment. Not only this, learned A/R for the claimant further, pointed out that no opportunity was given to the claimant even to adduce evidence during the course of domestic enquiry. Attention of the Tribunal was also invited to the fact that the management was proceeded ex-parte on 14.07.2015 and an application was filed by the management for setting aside of the ex-parte order. As is clear from the record, the said application was dismissed by this Tribunal vide order dated 05.08.2017 due to non-appearance on behalf of the management on three previous dates of hearing. It was on account of this reason, that the application filed for setting aside the ex-parte order dated 14.07.2015 was rejected by the Tribunal.

9. No doubt, under the law initial onus is always upon the workman to prove that the domestic enquiry conducted against him is not fair or is against principles of natural justice. However, this Tribunal cannot ignore the

fact that the claimant has specifically denied the allegations contained in the charge sheet, as is clear from reply dated 28.10.1999. Equally settled is the principle of law that in a domestic enquiry, fair opportunity is required to be afforded to a charge sheeted employee so as to adduce evidence in respect of allegations contained in the charge sheet. Since in the present case, management has not put up their appearance nor have they filed any reply to the statement of claim, as such, this Tribunal is bound to draw adverse inference against the management. It is trite law that if allegations contained in the statement of claim and evidence adduced by a party if not rebutted by the other party, Court or Tribunal can legitimately draw adverse inference against such a party who has not put up appearance nor denied the allegations contained in the statement of claim.

10. Hon'ble Apex Court in Nirmala J Jhala Vs. State of Gujarat (2013) 4 SCC 301 decided on 18.03.2013, has dealt with the standard of proof in case of domestic enquiry. In the said judgement, reliance is also placed upon the case of MV Bijlani Vs. Union of India (AIR 2006 SCC 375, wherein it was observed as under:

'Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures.' (Emphasis added) (See also : [Narinder Mohan Arya v. United India Insurance Co. Ltd. & Ors](#), AIR 2006 SC 1748; [Roop Singh Negi v. Punjab National Bank and Ors](#), AIR 2008 SC (Supp) 921; and [Krushnakant B. Parmar v. Union of India & Anr](#), (2012) 3 SCC 178).

11. In the above judgement, there are also observations that a delinquent employee is required to be given proper opportunity to defend himself in the domestic enquiry and evidence recorded in preliminary enquiry cannot be used in a regular enquiry against such employee. Further, it is incumbent upon the department or the management to place the entire record pertaining to such domestic enquiry before the Tribunal so that the Tribunal could appreciate the entire evidence in proper perspective. In the case in hand, there is nothing on record filed by the management that the list of witnesses was supplied to the claimant, alongwith documents upon which reliance was placed during the course of domestic enquiry by the management. There is also no evidence worth the name to show that due opportunity was afforded to the claimant herein to adduce evidence so as to rebut the charges contained in the charges. One the claimant has entered into the witness box and adduce evidence that he was present during the period mentioned in the charge sheet and performed his duties during the said period, in that eventuality, onus would shift upon the management to prove veracity of the allegations contained therein. Law is fairly settled that in a departmental proceedings which are quasi judicial in nature, principles of natural justice are required to be complied with. However, in the case in hand, management has given a complete go-by to all these things, which has dealt a serious blow to the case of the management. Further, the Apex Court in S.P. Malhotra vs. Punjab National Bank(2013 Lab.I.C. 4097, held that non-furnishing of copy of enquiry report causes serious prejudice to the delinquent employee and order of dismissal in such circumstances cannot be legally sustained. Similar view was also taken in (2013 LAB.I.C. 2126).

12. As a result of the above discussion, it is held that the so called domestic enquiry conducted against the claimant herein is unfair and against principles of natural justice. Resultantly, punishment of stoppage of 5 increments together with non-counting of period of suspension for the purpose of qualifying service, imposed upon the workman cannot be legally sustained, is null & void, against the principles of natural justice and is liable to be set aside. As a necessary corollary, the claimant is held to be entitled to all consequential benefits, including release of his 3rd ACP payable to him in 2011. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer